



Appeal Decision

Site visit made on 21 August 2017

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5th September 2017

Appeal Ref: APP/P2114/W/17/3175728

Noke Common Dairy, Noke Common, Newport, Isle of Wight PO30 5TY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr A Button against the decision of Isle of Wight Council.
 - The application Ref P/01283/16, dated 15 September 2016, was refused by notice dated 16 November 2016.
 - The development proposed is conversion of an agricultural building into a C3 dwellinghouse.
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Decision

1. The appeal is dismissed.

Background and procedural matter

2. The application for prior approval was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order). Class Q grants deemed planning permission (permitted development rights) for the change of use of agricultural buildings and any land within their curtilages to dwellinghouses. Paragraph Q(b) of Class Q states that development will be permitted development when it would consist of 'building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) ...' of the Use Classes Order.
3. Paragraph Q.1(i) lists the range of building operations that are permissible under paragraph Q(b) and in paragraph Q.1(i)(i) those operations are stated as 'the installation or replacement of (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse'.
4. Recent case law (the Hibbitt judgement¹) has provided some clarification as to how building operations reasonably necessary to convert a building under Class Q should be interpreted. I consider the Hibbitt judgement has relevance to this case and the parties have therefore been given the opportunity to comment on it.

¹ Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

Main Issue

5. The main issue is whether the proposal would be permitted development under Class Q of the Order.

Reasons

6. The development would involve the change of use of an agricultural building and adjoining land, with associated building operations, to form a dwelling. The building is enclosed on three sides and is open to the front. The development would involve the installation of a front wall. Section 4 of the supporting statement accompanying the application states that the following works would be undertaken: the provision of an insulated floor slab; the insertion of timber frame insulated panels as the internal skin; the insertion of doors and windows as necessary; 'retain existing supports and structure, where sound and structurally capable'; and 'subject to the precise design solution, replace the roof covering and cladding ...'.
7. I consider that, in relative terms, extensive building operations would be necessary to enable this building to function as a dwelling. That is because not only would a totally new front wall need to be built, but the rear wall's metal cladding would be replaced by timber boarding, as shown on drawing 2015/27.25. It is also likely that considerable works would need to be undertaken to the side walls, given that they currently comprise boarding with gaps between each of the timbers. The phrase 'retain existing supports and structure, where sound and structurally capable' also suggests that the supporting structure may not be sufficiently sound to facilitate the development. The evidence concerning the roof covering is not entirely clear, with it originally being indicated that the roof would be replaced, while in commenting on the Hibbitt judgement it has been submitted that the existing roof covering could be retained.
8. Irrespective of the position with respect to the roof, the available evidence suggests that little of the original building would remain after the development's completion. Having regard to the Hibbitt judgement I consider that the amount of 'fresh' building needed would be of an extent exceeding that reasonably necessary for this building to function as a dwelling. It will be evident that I do not share the Council's opinion about the relevance of the Hibbitt judgement to this case. Given that the judgement was handed down just a week prior to the Council making its decision, I consider it cannot be assumed that the Council would have taken it into account as part of the application's determination.
9. I therefore conclude that the development would not be permitted development under Class Q of the Order, with the building operations exceeding those reasonably necessary for a conversion under paragraph Q(b). Given that conclusion it is unnecessary for me to consider whether the development would or would not be compliant with all of the limitations under paragraph Q.1 of the Order.
10. The appeal is therefore dismissed.

Grahame Gould

INSPECTOR