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## Appeal Decision

Site visit made on 24 October 2017

**by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE**

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

**Decision date: 9 November 2017**

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**Appeal Ref: APP/N2535/W/17/3179075**

**Highgate Lane, Nomanby by Spital, Market Rasen LN8 2HQ**

- 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 Leigh Dearden against the decision of West Lindsey District Council.
  - The application Ref 135910, dated 10 February 2017, was refused by notice dated 29 March 2017.
  - The development proposed is described as the conversion of an agricultural barn to a single dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Class Q (a) together with Class Q (b) of the Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) permit the change of use of an agricultural building and land within its curtilage to a residential use falling within Class C3 (dwellinghouses) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and the building operations reasonably necessary to convert the building to that use.
3. The Council considers that the extent of the proposed building operations go beyond those that are reasonably necessary to convert the building to a dwellinghouse and therefore in not meeting the test set out in paragraph Q.1 (i) the proposal is not capable of being permitted development.

### Main Issue

4. The main issue is whether the proposed building operations would go beyond what is reasonably necessary to convert the building such that they would take the proposal outside of the scope of what is permitted development under the GPDO.

### Reasons

5. On the basis of the evidence before me I have no reason to conclude differently to the Council that the proposal would satisfy the criteria set out in Q.1 (a to h) and Q.1 (j to m) of the GPDO. The primary area of dispute between the parties

concerns the extent of building operations proposed and whether or not these would meet the criteria of Q.1 (i) which, amongst other matters, states that development is not permitted under Class Q (b) of the GPDO if it would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls, to the extent reasonably necessary to allow the building to function as a dwellinghouse.

6. Paragraph 105 of the Planning Practice Guidance (PPG) on permitted development provides guidance in this respect. It states that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling and that it is not the intention of the right to include the construction of new structural elements of the building. It goes on to say that it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.
7. The appeal building is steel portal framed with corrugated fibre cement cladding to the sides above partial blockwork walls. The roof is also comprised of corrugated fibre cement panels on timber purlins and rails. The western side of the building has no wall or cladding whilst the eastern side is partly open, having a small breeze block wall with some cladding being absent.
8. Although both main parties have referred to a structural report dated 21 August 2016, no evidence has been provided of the full content of the report. The Council suggest that the report was based on a single visual assessment undertaken on 28 July 2016. The appellant has provided extracts from the report which identify that the building is currently in a stable condition only limited repair work is necessary to allow it retention where desired. The report states that it is therefore suitable for retention and incorporation into a scheme of alteration subject to careful structural consideration at detailed design stage.
9. The extracts from the submitted structural report identify that the roof structure appears robust and well designed to resist all applied vertical and wind loads for the foreseeable future and that the member sizes to be used for the roof are satisfactory subject to careful consideration in terms of weight of the new roof covering. However, the extracts identify that the existing timber purlins would be required to be replaced and that cladding treatment should not impose additional loading upon the cladding rails and the primary structure.
10. On the basis of the limited evidence provided and from my observations at my site inspection, the proposals would leave only the steel structure and floor remaining. Given that the existing building is open on two sides, it is clear to me that without extensive building works it would not be capable of functioning as a dwelling.
11. The evidence provided in the extracts from the structural report defers structural considerations to the detailed design stage and identifies that materials to be used should not impose additional loads on the primary structure. However, it does not identify any correlation between materials proposed to be used and whether additional loads on the primary structure would be caused. Whilst the extracts refer to the floor slab being undamaged, it states that care is required in detailing the internal configuration but it does not identify the extent of work required to the floor slab or provide any interpretation of the 'care' required. In addition, I have no evidence to

suggest that the existing blockwork walls have foundations that are capable of being used to support the load of the proposed side walls

12. The extent of the works proposed would effectively mean that only the steel portal frames of the existing barn would remain with all other components of the proposed dwelling comprising new construction. Furthermore, I am not satisfied that the evidence provided, which defers the careful structural considerations to detailed design stage, adequately verifies that the structural integrity of the steel frame, the side rails and the floor to the extent that the overall structural integrity of the existing building is capable of being converted to a dwellinghouse without extensive rebuilding, the provision of new structural elements or the need for any new foundations.
13. Consequently, I find that the extent of works proposed in order to enable the remaining frame to be used as a basis for the conversion of the building for use as a dwelling house would be extensive and would be tantamount to the construction of a new building. In my view, the extent of works necessary would go substantially beyond those that are reasonably necessary to convert the building.
14. In arriving at this view I have had regard to the High Court judgement in the case of *Hibbitt v SSCLG [2016] EWHC 2853(Admin)* referred to by the Council. This reinforces my conclusion that, having regard to the advice in the PPG, the extent and type of building operations necessary would far exceed those that can be considered reasonably necessary to convert the building as prescribed in the GPDO. I am also not satisfied that the proposal would not involve the construction of new structural elements.
15. Accordingly, for these reasons, I do not consider that the development proposed would meet the criteria of Class Q (b) and, as such, I conclude that the proposal is not permitted development. Consequently, the proposal is development for which an application for planning permission is required.

#### *Other matters*

16. I have taken into account the appeal decisions referred to by the appellant (Refs APP/Q1825/W/15/3006087; APP/P0240/W/15/3005436 and APP/U1240/W/15/3006037). I do not have full details of the nature and circumstances of the proposals in these appeals or the extent of any accompanying structural evidence. Moreover, the decisions on these appeals predated the judgement in the case of *Hibbitt v SSCLG [2016] EWHC 2853(Admin)*. Consequently, I cannot be certain that these are comparable with the circumstances in this appeal. In any event, I have determined this appeal on its own individual merits.

## **Conclusion**

17. The proposed works would fall outside of the limitations of paragraph Q.1 (i) of the GPDO and would go substantially beyond the building works reasonably necessary to convert the building to function as a dwellinghouse. Consequently the proposal would not satisfy the requirements of Schedule 2, Part 3, Class Q of the GPDO and therefore is not development permitted by it. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

*Stephen Normington*

INSPECTOR