



Appeal Decision

Site visit made on 2 January 2018

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 8th January 2018

Appeal Ref: APP/U2235/W/17/3180661

Hill Farm Barn, Lenham Road, Ulcombe, Maidstone, Kent ME17 1LT

- 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 (as amended).
 - The appeal is made by Mrs S Matthews against the decision of Maidstone Borough Council.
 - The application Ref 17/500585/PNQCLA, dated 23 January 2017, was refused by notice dated 3 April 2017.
 - The development proposed is described as – ‘Prior notification for proposed change of use of agricultural building to a dwelling house. For it’s prior approval to: - Transport and Highways impacts of the development – Contamination risks on the site – Flooding risks on the site – noise impacts of the development – whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change as proposed’.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the decision notice. Nevertheless, it does not clearly specify whether the application for prior approval was made pursuant to Class Q (a) or Class Q (a) and (b) of Schedule 2, Part 3 of the GPDO¹. Having considered the submissions it is clear that building operations are proposed and have been assessed by the Council. I have therefore considered the appeal as an application for prior approval pursuant to Class Q (a) and (b).

Background and Main Issue

3. During my site visit I observed that the appeal building is not redundant and contained domestic paraphernalia. Nevertheless, the Council is satisfied that the building was in an agricultural use on the required date and I have therefore approached my assessment accordingly. Notwithstanding this, the Council have refused the appellant’s application for prior approval because it does not consider the existing building benefits from the permitted development rights conferred by Class Q of the GPDO.
4. In particular, the Council opines that the appellant has not provided sufficient details, such as a structural report and schedule of works, to demonstrate that the

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

proposal is a genuine conversion and, in order for the building to function as a dwelling, it would not require building operations, such as structural works, that would go beyond what could reasonably be considered necessary to convert it. Thus, the Council considers the appellant has provided insufficient information to enable it to establish whether the proposed development complies with the conditions, limitations and restrictions specified in Class Q.

5. Subject to the imposition of planning conditions in the event the scheme was otherwise acceptable, the Council has not indicated that it has any other concerns with the proposal, including those matters which require its prior approval under Paragraph Q.2 of the GPDO. As such, the issue in dispute, and the main issue in this appeal, is whether the proposal would amount to a conversion and if so, whether the works would consist of building operations other than those reasonably necessary to convert the building.

Reasons

6. Class Q (a) permits a change of use of an agricultural building to a dwelling house and Class Q (b) permits the associated building operations reasonably necessary to convert the building. Paragraph Q.1 (i) clarifies the scope of permitted building operations. It states that development is not permitted by Class Q 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 for the building to function as a dwelling house and partial demolition to the extent reasonably necessary to carry out these building operations.
7. The National Planning Practice Guide² (PPG) provides further guidance on the interpretation of Class Q and states that *'the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, it recognises that for the building to function as a dwelling some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted..... It is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore 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'*. Additionally, the Courts have clarified in a legal judgement³ that works which fall outside of 'conversion', as specified in the GPDO, will not be permitted development.
8. The appeal building encompasses three distinct sections. The eastern section is a pitched roof timber framed barn with a rectangular plan. It has a concrete floor and stone plinths. The timber frame forming the walls and roof appeared to be in a sound condition. However, the existing corrugated roof covering is in a poor state of repair and would need to be replaced as part of any conversion. The appellant is proposing to use clay roof tiles to replace the corrugated sheeting. It is unclear whether the existing roof structure could take the loading associated with a clay tiled roof and therefore whether it would need to be rebuilt or significantly strengthened.
9. The western section of the building encompasses three original hop picker's huts, each with a separate entrance door and window. This part of the building would

² Paragraph 105 Reference ID: 13-105-20150305

³ *Hibbitt v SSCLG* [2016] EWHC 2853)

be considerably altered as part of the proposal with a new roof covering, the application of render and the removal of old openings and internal walls and the insertion of new ones. The structure appeared in a fragile state and it is unclear whether it could take the proposed works without further strengthening or rebuilding.

10. The middle section of the building comprises a lean-to type structure that is in a very poor condition. Its original construction appears to have been rudimentary and it is unclear whether there is a solid floor. The timbers holding up the structure are not all jointed and some are merely resting upon one another. Parts of the roof are simply propped up and the walls are flimsy corrugated sheeting. The appellant has suggested that new block work would be constructed in this section but it is unclear whether this would be load bearing and whether foundations would be required.
11. When considered cumulatively it is conceivable that the appeal building could, to all intents and purposes, ultimately require substantial demolition and rebuilding or, at the least, new structural elements to make it sound and capable of functioning as a dwelling. In the absence of evidence to the contrary, which could include a structural report and scheduled of works, there is insufficient evidence to suggest this would not be the case. In such circumstances the works would go beyond what a reasonable person would consider to be a conversion.
12. The appellant has suggested that no new structural elements are required to convert the building. However, it is unclear how she has arrived at this view and evidence has not been submitted to suggest it was informed by a relevant specialist. Given what I observed, I favour the Council's view that the building could likely require substantial rebuilding and/or new structural elements in order for it to function as a dwelling.
13. Thus, I cannot conclude with certainty that the works that would be necessary to facilitate the use of the building as a dwelling would amount to a conversion. It seems to me that the building could cumulatively require substantial rebuilding or structural enhancement. In this respect, the Concerns of the Council are quite legitimate and it was reasonable for it to request the submission of further evidence to clarify whether the building is capable of conversion within the scope of those works permitted by Class Q. Without this, the appellant has provided insufficient information to establish whether the proposed development complies with the conditions, limitations and restrictions specified in Class Q.
14. In arriving at this view I accept that Class Q does not specifically require the submission of structural reports and schedules of works. Therefore, to do so routinely would be incorrect. The appellant has referred to other buildings⁴ in the Council's area where a conversion was permitted under the prior approval process without structural surveys and reports. However, it is a point of note that structural calculations and details were submitted with the prior approval application the subject of the court judgment already referred to. Thus, there may be circumstances where these details are necessary and I consider this to be one.
15. Moreover, Paragraph W(9) of Part 3 of the GPDO does permit a local authority to require such information as the authority may reasonably require to determine the application, including details of building or other operations. Paragraph W(3)

⁴ Including the Raspberry Shed in Sutton Valence and the buildings the subject of applications 17/501691/PNQCLA and 15/510272/PNQCLA

allows an authority to refuse an application for prior approval if insufficient information has been submitted. In this instance, given the existing condition of the building, particularly the middle section and the hopper huts, and the extent of works that may be required to facilitate residential occupation, it is necessary for the appellant to provide further details and clarification. Specifically, whether the building can be converted and whether it is structurally strong enough to take any additional loading which would accrue from the works required for the building to function as a dwelling.

16. Thus, in order to benefit from the provision of Schedule 2, Part 3, Class Q of the GPDO, the building must be capable of being converted to a dwelling and converted in a way whereby only those building works reasonably necessary to convert it are undertaken. In this case insufficient information has been submitted to establish whether this would be the case and therefore, I find that the proposal before me is not permitted development. Consequently, I conclude the proposal is development for which planning permission is required. An application for planning permission would be a matter for the Local Planning Authority to consider in the first instance.

Other Matters

17. Given my findings above, it is unnecessary for me to consider the merits of the prior approval application against those matters set out in Paragraph Q.2 of Class Q of the GPDO.
18. A barn to the immediate south of the appeal site was apparently granted prior approval for a conversion to a dwelling. However, each application for prior approval turns on the specific facts of the case. In this instance the appeal has failed for the particular reasons given. Thus, the granting of prior approval at the barn opposite the appeal site (or at the other sites referred to by the appellant) does not justify me allowing the appeal. Similarly, the appellant has referred to three appeal decisions⁵ but these do not appear to incorporate works of substantial rebuilding and pre date recent guidance in the PPG and the relevant legal judgement already referred to. Thus, they do not alter my conclusion on the main issue.
19. The application for prior approval followed discussions with the Council's Conservation Officer who indicated that the building was of historic interest and any conversion should retain the historic interest of the hop pickers huts. Whilst these discussions are noted, it does not alter my conclusion that the appellant has failed to demonstrate that the proposed works would fall within the scope of what is permitted by Class Q (b). In any event, it is unclear whether a conversion along the lines proposed would retain the historic interest of the huts.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR

⁵ APP/N1215/A/14/2225593, APP/N1730/A/14/2225012 and APP/D040/14/222027