
Appeal Decision

Site visit made on 30 October 2017

by Graham Wyatt BA (Hons) MRTPI

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

Decision date: 10th January 2018

Appeal Ref: APP/F2605/W/17/3179670

Agricultural Building, Doe Lane, Old Buckenham, Norfolk NR17 1PP

- 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 & Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Mr Ben Devlin against the decision of Breckland District Council.
 - The application Ref 3PN/2017/0004/UC, dated 25 January 2017, was refused by notice dated 23 June 2017.
 - The development proposed is change of use of agricultural building to a dwelling (C3).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Ben Devlin against Breckland District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposal would be permitted development.

Reasons

4. The appeal site is a detached steel portal framed building which is covered in profile fibre cement boarding on 3 sides. The building is open to the front (north) and recently had a concrete floor installed over the entirety of the internal floor space. The proposed conversion would result in a 4 bedroom dwelling with open plan living, dining and kitchen area, all provided on the ground floor.
5. The Council found that the works were not permitted development for two reasons, one of which was on the grounds that a new concrete base was installed inside the building, prior to the determination of the application and that works required to convert the building into a dwelling were considered to be re-build rather than conversion. The Council state that the concrete floor was installed to overcome a reason for refusal on a previous application for Prior Approval¹ and so formed part of the residential conversion. The appellant argues that under section 55(2)(a) of the Town and Country Planning Act 1990 (as amended) (the TCPA), the carrying out of work for the maintenance,

¹ 3PN/2016/0080/UC

improvement or other alteration which (i) affects only the interior of a building or (ii) does not materially affect the external appearance of the building, does not constitute development and so does not need to be covered by the permitted development rights granted by Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO).

6. The appellant also suggests that other types of work, such as “the installation of new structural elements in the building, such as structural strengthening, including a new or augmented load-bearing frame, additional or strengthened roof trusses” does not constitute development. However, section 55 of the TCPA only applies to works of “maintenance, improvement or other alteration” whereas Class Q of the GPDO refers to “building operations reasonably necessary to convert the building”. As a result, there is a distinct difference between works that only affect the interior of a building falling under s55(2) of the TCPA, to alterations undertaken internally as part of a material change of use of a building.
7. The appellant maintains that the floor is not structural and was installed for the “benefit of the ongoing agricultural use”. A letter² confirms that the building was dismantled and re-erected in its current position in 2008 and was used up until 2016 for the storage of agricultural machinery, when it was sold to the appellant. The application form confirms that the building is still used for the storage of agricultural equipment, which I witnessed during my site visit. According to the Council the installation of the floor also occurred in the two month period between the previous refusal for Prior Approval³ which stated in the reason for refusal that, amongst other things, the “building would require the present bare earth floor to be replaced with a hard surface...” and the submission of the application which is the subject of this appeal. There is also no doubt that the installation of the floor would have been at a cost to the appellant yet it seems to have been laid when the appellant was actively considering changing the use of the building.
8. It appears to me that the building had been used satisfactorily to store agricultural machinery without a concrete floor for a number of years and given the circumstances above I have no agricultural justification to explain why it has now been installed. In addition, the Schedule of Works submitted with the application states that insulation would be installed on top of the existing concrete floor. Therefore, had a concrete floor not been installed inside the building, in order to carry out the conversion one would have to be provided for damp proofing, for the insulation and subsequent conversion works to be carried out. Notwithstanding that the concrete floor is not a structural element, it is nonetheless integral to the conversion of the building to allow it to function as a dwelling.
9. Clearly I do not know the precise motives behind the laying of the floor. However, in light of the above it is reasonable to assume it was primarily laid as part of the intended residential use. Hence the proposal is in part retrospective and so falls outside the bounds of Class Q.
10. Notwithstanding my assessment above, I turn to the building operations required to enable the building to function as a dwelling. Schedule 2, Part 3, Class Q the GPDO allows a change of use of a building and any land within its

² Poplar Pigs (Buckenham) Ltd dated 4 April 2017

³ 3PN/2016/0080/UC

curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Paragraph Q.1 sets out various circumstances in which development is not permitted by Class Q.

11. Class Q.1(i) details which building operations are permitted in order to carry out the conversion, to the extent reasonably necessary for the building to function as a dwellinghouse. This is further expanded upon within the Planning Practice Guidance (PPG). However, the PPG makes it clear that it is not the intention of permitted development right to allow new structural elements and it is only when the building is structurally strong enough to take loading as part of the conversion, would the building be considered to have the permitted development right. Moreover, the proposal must only involve building operations reasonably necessary to convert the building.
12. The laying of a floor does not fall with the type of works considered reasonably necessary to convert a building to allow it to function as a dwelling permitted by Class Q1(i)(1)(aa). It is clear to me that the conversion relies upon the concrete floor and is development within the definition at section 55(2) of the TCPA as it goes beyond 'maintenance, improvement or other alteration' which would be exempted from any requirement for planning. I therefore conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q(i) of the GPDO.

Other Matters

13. The appellant has referred to a decision⁴ whereby the Council approved a Prior Notification for the conversion of an agricultural building into a dwelling. The appellant suggests that the approved application is similar to the building at the appeal site. However, full details of the circumstances that led to this development being accepted have not been provided, so I cannot be sure that it represents a direct parallel to this appeal proposal. Moreover, I have considered the appeal on its own merits which is one of the fundamental principles that underpins the planning system.

Conclusion

14. I therefore conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Consequently, it is development for which an application for planning permission would be required. This would be a matter for the local planning authority to consider in the first instance, and cannot be addressed under the prior approval provisions set out above. The appeal is, therefore, dismissed.

Graham Wyatt

INSPECTOR

⁴ 3PN/2016/0076/UC Church Road, Whinburgh