
Appeal Decision

Site visit made on 18 December 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2018

Appeal Ref: APP/X1545/W/17/3180431

Barn South of Birs Lodge, Lower Burnham Road, Latchingdon CM3 6HF

- 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 & Mrs B I Wells against the decision of Maldon District Council.
 - The application Ref COUPA/MAL/17/00034, dated 10 January 2017, was refused by notice dated 8 March 2017.
 - The development proposed is the change of use of agricultural building to a dwellinghouse (C3), and for associated operational development.
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Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. Class Q permits development consisting of the change of use of a building (and any land within its curtilage) from an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Class Q, at paragraph Q.1(i), also allows any building operations reasonably necessary to convert the building.
4. No evidence has been provided to me to suggest that the building is not in agricultural use, although at the time of my site visit the building contained two caravans and a motorhome in the part of the building which would be demolished. It is also noted that the prior approval form indicated that the building was not in use as at 20 March 2013, but was last used for agricultural purposes around May 2012.
5. The Council's main contention is that the building operations required would go beyond what could be reasonably considered to be a 'conversion' and therefore the proposal would not be 'permitted development'.
6. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It states that development is not permitted if it would consist of building operations other than: (i) 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; and (ii) partial demolition to the extent reasonably necessary to carry out building.
7. Paragraph 105 of the Planning Practice Guidance (PPG) provides further clarification. The guidance states that 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.
 8. The part of the appeal building which would remain as part of the proposed development is steel framed, with the parts of the building to be demolished being supported by timber.
 9. The existing building has breeze block wall on its east elevation, metal profiled sheeting on the south and west elevations, and is currently open on the north elevation to the proposed dwelling. There are gaps between the top of the existing walls and the roof on all three elevations and the metal sheeting on the south elevation does not go down to floor level. The roof has profiled sheeting whilst the building has a concrete floor.
 10. The permitted development right described in Part Q relates to the conversion of a building. For that right to apply the building must first be capable of functioning as a dwelling.
 11. The drawings submitted with the application indicate that the east elevation would have bi-folding doors which would invariably mean that the breeze block wall would have to be demolished. I have also noted that the metal cladding on the south elevation does not extend to the floor or the eaves and would require replacement. It is also likely that the cladding on the west elevation would also require replacement. Therefore, all sides of the proposed dwelling would require new walls.
 12. The plans indicate that the roof would remain, although given the shape of the steel frame (with an overhanging element on its northern side which would need to be removed to implement the proposed development) it is inevitable that at least part of the roof would have to be removed to undertake the works.
 13. Whilst I accept that substantial works could fall under the scope of Class Q, they nonetheless presuppose that the works comprise a "conversion".
 14. In this case, the building works outlined above include the complete removal and replacement of all walls and at least some of the roof. To my mind this goes beyond what could reasonably be described as a conversion. In coming to that conclusion I acknowledge that the existing steel frame of the building would be the main structural element of the building.
 15. I have also had regard to a recent appeal decision which has been brought to my attention¹. However, I note that this proposal was accompanied by a structural report and would involve the retention of a concrete blockwork wall to the rear of the building. It is also noted that no demolition works were proposed in that development. From the limited information before me, this

¹ APP/X1545/W/17/3177356

development is materially different to the current appeal scheme. Moreover, each proposal must be considered on their individual merits.

16. Given the above I must conclude that the works necessary to create a dwelling from the building on site would not fall within the scope of that permissible under Part Q(b) and therefore would not be permitted development.

Conclusion

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

Chris Forrett

INSPECTOR