
Appeal Decision

Site visit made on 23 January 2018

by R J Jackson BA MPhil DMS MRTPI MCM

an Inspector appointed by the Secretary of State

Decision date: 09 February 2018

Appeal Ref: APP/Y3940/W/17/3181831

Barn 1, Longhedge Farm Yard, Longhedge, Salisbury, Wiltshire SP4 6BS

- 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 Stephen and Henry Langdon against the decision of Wiltshire Council.
 - The application Ref 17/04835/PNCOU, dated 16 May 2017, was refused by notice dated 5 July 2017.
 - The development proposed is change of use of existing agricultural building B1 to a single C3 dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. This appeal relates to an application made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
3. At the appeal stage the appellant submitted a revised plan showing the extent of the proposed residential curtilage to correct a cartographical error as to the width. This has no implications outside the appeal site and I will therefore use this plan in making my decision.

Main Issue

4. The Council, in refusing permission, indicated that it considered that the proposal did not meet the criteria for permitted development. Consequently, the main issue in this case is whether the proposal meets the criteria for permitted development under the GPDO.

Reasons

5. The appeal site lies on the edge of an area of agricultural buildings with a field to the west. It includes an access passing a number of other buildings to the A345 road. The building is constructed from a concrete portal frame of five bays; the northern end bay is open although covered with a sheeting roof. The remaining four bays are infilled by nine rows of concrete blocks with sheeting material above. The floor is made from concrete.

6. The proposal is to utilise (to use a neutral term) the four infilled bays as a dwelling through various building works including the introduction of a mezzanine floor in the southern two end bays. Parking would be provided in the end bay and to the west. A curtilage would be provided around the completed building.
7. Under Class Q of Part 3 of Schedule 2 of the GPDO it is permitted development for (a) a change of use of and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (the UCO); and (b) building operations reasonably necessary to convert the building referred to in (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.
8. The dispute in this case is whether the proposal would represent the “conversion” of the existing building and thus be permitted development, or whether the works would go beyond those works reasonably necessary to convert the building. The appellants submitted a Structural Report which indicates that the building is structurally adequate to take the loadings of the proposals, and this is not disputed by the Council, but this is not the only point of consideration.
9. The national Planning Practice Guidance states¹ “permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. However, it [the permitted development right] 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”.
10. The appellants have referred to the internal works, particularly the introduction of the mezzanine floor as not being “development”, as they see it, under Section 55(2)(a) of the Town and Country Planning Act 1990 (as amended). However, this only applies to works of “maintenance, improvement or other alteration which affect only the interior... or do not materially affect the external appearance of the building”. The introduction of a first floor goes beyond maintenance (since the first floor does not currently exist), and for an improvement the use must pre-exist. A planning permission, even if granted by development order, is for the whole, both internal and external works, not the individual elements. I therefore conclude this assertion does not assist the appellants.
11. The existing concrete block walls would remain, although they would be rendered and windows inserted, but the remaining external vertical cladding would be removed and replaced with timber cladding and the roof would be replaced with slates. The northern penultimate end bay, which is currently open, would be infilled; it appears with glazing. To my mind, looked at overall the works proposed go beyond the conversion of the building and would represent a re-building. As currently constituted the building at present could not function as a dwelling, particularly due to its open northern end, and the works are such that they would represent a re-building.

¹ Reference ID: 13-105-20150305

12. The parties have referred to a High Court decision² on this topic. Here it was held that the building must be capable of conversion to residential use without operations that would amount either to a complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. Clearly each case is fact specific, but I see similarities between that case and the appeal proposal, in that looked at a whole the proposal would represent re-building rather works of conversion and therefore would not represent permitted development.
13. The appellants have also referred to a number of different cases both in Wiltshire and elsewhere which they state have been considered to be permitted development. However, as I have set out above, each case is fact specific, and I do not have the full details of these cases in front of me. While of interest, they cannot be determinative to this case.

Conclusion

14. For the reasons given above I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR

² Hibbitt and Another v Secretary of State for Communities and Local Government & Rushcliffe Borough Council [2016] EWHC 2853