



Appeal Decision

Site visit made on 21 November 2017

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2018

Appeal Ref: APP/J3720/W/17/3179581

One Lower Lodge Farm, Oversley Green, Alcester, Warwickshire B49 6LJ

- 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 P Wilson, G W Wilson & Sons against the decision of Stratford on Avon District Council.
 - The application Ref 16/04109/COUQ, dated 23 December 2016, was refused by notice dated 14 February 2017.
 - The development proposed is described as: 'The building is a steel portal framed building having concrete floor, concrete thrust walls, "C" section cladding rails with wall cladding with a curved roof. It is proposed to remove the sub soil from the concrete floor and insulate provide timber cladding over the existing wall elements and insulation on the internal elements. The building is bounded by a track to its South, Natural mature tree planting to its East and open fields to its North. The site is not within any designated areas'.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 2015 GPDO) for the proposed change of use of agricultural building to 1 dwellinghouse, associated curtilage and building operations (Class Qa and Qb) at One Lower Lodge Farm, Oversley Green, Alcester, Warwickshire B49 6LJ in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2 (1) of the 2015 GPDO through application Ref 16/04109/COUQ, dated 23 December 2016. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3) of the 2015 GPDO and subject to the following additional conditions:
 1. The development hereby permitted shall be carried out in accordance with the following approved plans: 2960-P4, 2960-P5, 2960-P6 and 2960 – P7.
 2. Prior to the commencement of development, details of all proposed external facing materials shall be submitted to and approved in writing by the local planning authority. The development hereby approved shall be carried out in accordance with the approved details.
 3. No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice

and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.

Procedural Matters

2. For the purposes of my Decision I have used part of the Council's description of the proposal, as this more accurately and precisely reflects the permitted development for which prior approval is sought in the terms of Class Q of the GPDO, than the original description provided by the appellant on the application form.
3. During the course of the appeal process Paragraph 105 of the Planning Practice Guidance (PPG) has been amended. The main parties were given the opportunity to comment on the amendments. I have taken account of the comments received and Paragraph 105 of the PPG, as amended.
4. I have been advised by the Council that between 2015 and 2017, steel cladding and concrete thrust panels were added to the building, subject of this appeal. Whilst I do not dispute this, the appellant's application is based on the building in-situ. Therefore, I have determined the appeal accordingly.

Main Issue

5. The Council has confirmed that the proposed development falls within the scope of Class Q(a) 'development consisting of a change of use of a building 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 Use Classes Order'. I have not found anything to dispute this.
6. However, the Council has refused prior approval on the basis that, in its opinion, the level of works proposed, including significant replacement walls would be excessive and would involve the introduction of structural elements to the building that are not considered to be reasonably necessary to convert the building into a dwellinghouse. Furthermore that the proposed building operations would be so extensive as to result in a new building instead of a conversion.
7. Accordingly, the main issue is whether the proposed building operations are reasonably necessary to convert the building to residential use.

Reasons

8. Paragraph Q.1(i) states that development is not permitted by Class Q if it would consist of building operations other than (i) 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 (ii) partial demolition to the extent reasonably necessary to carry out the building operations described.
9. The PPG provides government advice on how the Class Q permitted development right should be applied. I therefore attach significant weight to it. It advises that: 'Building works are allowed under the right permitting agricultural buildings to change to residential use: Class Q of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. However, the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission. This includes the installation or replacement of windows, doors, roofs, exterior walls....It is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.'¹
10. The existing building comprises a steel framed barn, standing on a concrete base with a curved roof form, its side and rear elevations are made up of concrete thrust panels along the lower thirds with the remainder being corrugated metal sheeting. The front elevation, with the exception of the steel supports is open. In my view the existing cladding along three sides of the building whilst not benefitting from insulation or being structural provide sufficient enclosure to the frame to be considered walls.
11. To convert the barn to a dwellinghouse the existing sub-structure of the building, which comprises its steel frame and in parts the wall rails would be retained along with the existing roof and concrete floor.
12. The concrete thrust walling along the side elevations would largely be retained and utilised for the application of the proposed timber cladding. Although I note that a section of the concrete thrust walling would have to be modified to accommodate a proposed window along one of the side elevations. The existing steel cladding would be removed for aesthetic reasons. However, Paragraph Q.1(i) does allow partial demolition.
13. According to the appellant the walling along the rear elevation would be replaced with a self-supporting glazed curtain-wall system, which would infill between the existing steel frame. The Council has questioned as to how this would be self-supporting in the absence of any technical information.
14. However, the appellant's structural information² confirms by reference to drawing '2960-P5' that the proposed works can take place within the fabric of

¹ Planning Practice Guidance paragraph 105 Reference ID: 13-105-20180222

² Structural information by Richard Strauss Associates, Consulting Structural Engineers – Proj.No R1850, date 12/16

the existing building using the existing structural elements. In addition the appellant's appeal statement states: 'Glazing/windows are to be provided using self-supporting curtain walling supported laterally by the existing frame standing on the existing concrete slab'. I have no evidence to dispute this.

15. The front elevation would incorporate a full height glazing and door combination similar to that proposed along the northern elevation along with timber cladding. This would comprise the installation of a new walling system, which is also supported by Paragraph Q.1(i).
16. I appreciate that the proposed conversions would also include the installation of damp proofing and insulating materials. However, these would be largely internal and non-structural. Furthermore, I am mindful that such installations are ancillary to works such as replacement roofs and walls, which are supported by Paragraph Q.1(i).
17. Overall, in my judgement, the main works would comprise part replacement walls to the side elevations, installation of a new wall to the front elevation and a replacement wall to the rear elevation, all of which would be supported by the existing structure. These works individually or cumulatively would not be so extensive as to amount to substantial reconstruction of the existing building and based on the information before me would not result in any new structural additions. As a result, they could be considered to be 'reasonably necessary for the building to function as a dwellinghouse' in paragraph Q.1(i).
18. Based on the above reasons, the works necessary to create a dwelling from the existing building on site would fall within the scope of that permissible under Part Q. Accordingly, they would be permitted development under Class Q(b).
19. The Council has also referred me to the judgement in *Hibbitt*³ as does paragraph 105 of the PPG, where it was held that the building in question must be capable of conversion to residential use without building operations that amount to either substantial re-building of the pre-existing structure or, in effect, the creation of a new building. For the reasons set out above, I am satisfied the proposals would not result in the substantial re-building of the pre-existing structure or, in effect the creation of a new building.
20. I have also taken into consideration a recent appeal decision⁴, which the Council has referred me to. However, in that particular case the works included the excavation and installation of foundations, which are not included in the list of operational development in paragraph Q.1(i). The proposals subject of this appeal do not relate to any excavation or installation of foundations. As such, the circumstances of that appeal are different to the appeal before me and therefore I attach limited weight to this.

Conditions

21. Section W (13) of Part 3 of Schedule 2 of the 2015 GPDO allows for the grant of prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
22. I have specified the approved plans as this provides certainty. A condition relating to materials is necessary to ensure that the appearance of the

³ *Hibbitt v Secretary of State for Communities and Local Government* [2016] EWHC 2853 (Admin)

⁴ APP/J3720/W/16/3153579

development would be satisfactory. A further condition is necessary in respect of the investigation and remediation of ground contamination in the interest of the health and safety of future occupiers.

Conclusion

23. For the reasons given above I conclude the appeal should be allowed.

M Aqbal

INSPECTOR