



Appeal Decision

Site visit made on 3 April 2019

by E. Brownless, BA (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 24th May 2019

Appeal Ref: APP/J0405/W/18/3218143

Barns at Green End Farm, Granborough, Buckingham, MK18 3NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 Elmtree Agricultural Ltd. against the decision of Aylesbury Vale District Council.
 - The application Ref: 18/03740/COUAR dated 9 October 2018, was refused by notice dated 6 December 2018.
 - The development proposed is described as 'Conversion of existing agricultural barns to provide 2 no. C3 dwellings with associated works'.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the Order) for the change of use of an agricultural building to 2 no. dwelling/houses (Class C3), and associated works at Barns at Green End Farm, Granborough, Buckingham, MK18 3NT in accordance with the terms of the application Ref: 18/03740/COUAR dated 9 October 2018, and the details submitted with it, including plan numbers 18218ET CD101 Rev a; 18218ET CD112 Rev a; 18218ET CD211 Rev a; 18218ET CD212 Rev a; 18218ET CD113; 18218ET CD114, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q and subject to the following conditions:
 - 1) The use as residential dwelling/houses Class C3 shall not commence until the access shown on the approved plans shall have been provided in accordance with the Buckinghamshire County Council Guidance note titled 'Private Vehicular Access within Highway Limits 2013' and thereafter those areas shall be retained and used for no other purpose.
 - 2) The use as residential dwelling/houses Class C3 shall not commence until the onsite parking and manoeuvring space has been provided in accordance with the approved plans and thereafter the on-site parking and manoeuvring space shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling/houses and their visitors and for no other purpose.

Procedural Matters

2. The application was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as

amended), in which prior approval for the change of use of an agricultural building to two dwellings was sought.

3. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form, it is evident from the submitted details that the proposed development relates to the 'change of use of an agricultural building to 2 no. dwelling/houses (Class C3), and associated works.' This revised description better reflects the wording in the Order and more appropriately describes the proposed development, I have therefore considered the appeal on that basis as no party would be prejudiced or caused any injustice by me taking this course of action.

Main Issue

4. The main issue is whether the proposed development would consist of building operations other than the installation of windows, doors, roofs or exterior walls or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling/house.

Reasons

5. Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order¹ and any building operations reasonably necessary to convert the building.
6. Paragraph Q(1)(i) places restrictions on the building operations which can be undertaken and in particular, 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 operations.
7. Paragraph 105 of the Planning Practice Guidance² provides further clarification. It states that 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. It follows that it is only in instances where the existing building is structurally strong enough to take the loading which comes with the external works to provide for the residential use that the building would be considered to have the permitted development right.
8. The application was accompanied by a structural report. This concluded that the existing concrete frame is 'notably robust' and that the proposed works would add minimal loading to the existing frame which has sufficient spare load capacity to accommodate the proposed first floor with no requirement for strengthening. It goes on to state that the building is capable of conversion, but it suggests that it is likely that the profiled sheeting will be removed due to the possibility of it containing asbestos fibres and thereafter it would be replaced by a light weight cladding material.
9. It is not in dispute that the structure will be able to take the load required for the conversion. However, a demonstration of the load bearing capacity of the

¹ SI 1987/764 The Town and Country Planning (Use Classes) Order 1987 (as amended).

² Reference ID:13-105-20180615

frame alone is insufficient to meet the requirement of Part Q in this case. It is the Council's case that the works required would be extensive, such that, they would constitute a rebuild rather than a conversion. In particular, I note the Council's comments regarding the lack of substance in the exterior treatment of the building together with the removal of the existing roofing material and cladding, the latter of which the Council considers to be of poor condition.

10. The building is largely enclosed on three sides with walls consisting of a mixture of concrete block and profiled fibre reinforced cement sheeting. Whilst the cladding would be removed from the walls, there is no evidence before me that the concrete block forming the lower elements of the walls would be similarly affected. Albeit the roof material would likely be replaced, the existing concrete frame and roof frame would be retained as part of the proposal. New doors and windows including roof lights would be inserted together with an internal floor to provide first floor accommodation.
11. Taking into account the extent of the works required, I do not consider that these would exceed what could reasonably be regarded as a conversion. I find that they amount to either installation or replacement and they would not be so extensive as to constitute the construction of a new building nor would the nature of the works imply that the building would not be capable of functioning as a dwelling.
12. Whilst the Council has drawn my attention to the Hibbitt case³, this involved a barn that was completely open on three sides and required the complete construction of all four walls. Consequently, I do not find it to be directly comparable to the case before me and I have considered the appeal on its individual planning merits.
13. For the above reasons, I conclude that the proposed development would not consist of building operations other than the installation of windows, doors, roofs or exterior walls or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling/house.

Other Matters

14. Whilst the statutory duty under s66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 does not apply to prior approval applications because planning permission is granted by Article 3(1) of the Order, I have nevertheless had regard to the effect of the proposal on the setting of the Grade II Listed Buildings of Green End Farmhouse and Grange Farmhouse as a material consideration. By reason of its location I consider the proposal would be viewed as part of the farm complex and would not result in any harm to the significance of the designated heritage assets. The Council's Heritage Officer has raised no objection to the proposal and, based on the evidence before me, I see no reason to take a different view.

Conditions

15. The Council have suggested a number of conditions and I have considered these against the advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency or clarity.

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

16. Development under Class Q is permitted subject to the condition that development under Class Q(a) and (b) must be completed within a period of 3 years starting with the prior approval date. Therefore, it is not necessary for me to impose a condition relating to this matter as it is expressly referred to within the Order.
17. Conditions requiring the provision of an access and the layout of manoeuvring and parking spaces is necessary to protect the safety of highway users.

Conclusion

18. For the reasons given above, and having regard to all other matters raised, the appeal is allowed.

E Brownless

INSPECTOR