



Appeal Decision

Site visit made on 11 June 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 09 July 2019

Appeal Ref: APP/X2220/W/19/3222271

Nash Farm Barn, Walmestone Road, Nash, Ash, Kent CT3 2JU

- 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 Paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Godfrey Laslett against the decision of Dover District Council.
 - The application Ref DOV/18/01046, dated 19 September 2018, was refused by notice dated 23 November 2018.
 - The development proposed is the change of use of an existing agricultural barn into 1 no. dwelling house (Use Class C3 Under Class Q).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application the subject of this appeal was determined under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order), in which prior approval for the change of use of an agricultural building to a dwellinghouse was provided under Schedule 2, Part 3, Class Q, as well as associated operational development. I have taken the description of development from the application form but removed the detailed description of the proposal and the site.
3. Amendments and additional information have been provided with the appeal. These include a change to the proposal to retain, rather than replace, the existing external roof and wall cladding, a Supplementary Structural Report¹ and Drawing Number 1807_200 Proposed External Wall Plan and Section Details providing additional detail. In considering whether to accept the amendments, it is appropriate to apply the Wheatcroft Principles² which arise from a High Court judgement which considered the issue of amendments. It established that the main, but not the only, criterion on which the judgement should be exercised is whether the development is so changed that to grant it would deprive those who should have been consulted on the changed development the opportunity of such consultation. An integral element of the legal test is the issue of fairness to third parties.

¹ HFK Structural Engineers Supplementary structural report Ref 18071/KH

² Derived from Wheatcroft (Bernard) Ltd v Secretary of State for the Environment and Harborough DC (1982) P&CR 233

4. Notwithstanding the above, prior approval applications as to whether the proposal meets the criteria under paragraph Q.1 of the Order to benefit from the permitted development rights under Class Q, are considered specifically on a legal test, whereby the issue of consultation is not decisive. The amendments seek to address the Council's reason for refusal, in so far as the proposed works were not considered to be permitted development relative to paragraph Q.(b). In the particular circumstances of the case, I do not consider that any party would be prejudiced. I therefore accept the amendments and the additional information and determine the appeal with regard to Drawing number 1807_200 and the Supplementary Structural Report.
5. The Council's decision notice refers to a conflict with Class Q(b) and Q.1(h) (i) of the Order, and following the submission of the additional information with the appeal, the Council has raised a concern regarding conflict with Class Q.1(g). However, these paragraph numbers relate to the original 2015 Order, and not to the renumbered paragraphs introduced by the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018. I have therefore dealt with the appeal on the basis of conflict with Q.1(h) which relates to the external dimensions, and Q.1(i) which relates to the extent of building operations.

Main Issue

6. It follows that the main issue is whether or not the proposal constitutes permitted development under Schedule 2, Part 3, Class Q of the Order. In determining this, the key considerations are whether the works would result in an increase in the external dimensions of the building, and the nature of the operations required to convert the barn to residential use.

Reasons

External dimensions

7. The building is a steel framed structure with a rounded 'rolltop' roof. The roof and walls are clad with single skin corrugated metal sheeting and the building has a concrete floor slab, with an opening on the north elevation. The structure consists of three sway frames at equal spaces with braced gable frames at either end. The sway frames comprise lattice truss roof frames supported by universal beam column sections with an eaves connection plate. These primary steel frames support a series of metal purlins and metal side rails that support the existing corrugated sheet cladding to the roof and walls.
8. The proposal would retain the existing floor and steel frame, with new walls and roof covering. The amended details indicate that the existing corrugated metal sheeting would be retained as external cladding to the new walls and roof covering. A new internal structure would be provided which would create internal dividing walls and a mezzanine floor.
9. The submitted detail on Drawing Number 1807_200 indicates that the corrugated sheeting would be reused on new timber cross battens with a damp proof course on the walls. Plywood sheeting would be added to the roof, supported on new timber purlins attached to the existing steel frame with steel brackets. The metal sheeting would be fixed on timber cross battens. According to the details shown on Drawing Number 1807_200, the resulting external dimensions of the building would be greater than existing. I acknowledge that

the appellant disagrees, but the details shown on the drawing clearly indicate that the works as described above would result in the metal cladding sheets being set further away from the steel frame than is currently the case. As a result of these works, the proposal would not comply with the limitation set out in paragraph Q.1(h).

Operations

10. The Planning Practice Guidance (PPG) advises³ that the right to convert an agricultural building to residential use under Class Q assumes that the agricultural building is capable of functioning as a dwelling. While certain works are permitted through Q(b), 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, only when the existing building is already suitable for conversion to residential use would it be considered to have the permitted development right.
11. Supporting information has been provided to demonstrate that the building is structurally sound and capable of conversion. The Indicative External Wall Plan and Section Details shown on Drawing Number 1807_200 indicate that the first floor would be supported by the existing steel columns, and also show works to upgrade the external envelope of the building, as set out above, which are necessary in order for the building to function as a dwelling. The drawing indicates that these works would be supported by the existing metal structure, floor slab and foundations. This conflicts with the schematic structural section submitted with the Supplementary Structural Report, which indicates that the internal structure would not add any loading to the existing steel frame. Moreover, it does not indicate the works to upgrade the envelope of the building, which would add weight to the structure. As a result, it is not clear that the structural calculations within the Report take into account the additional loading to the existing structure indicated on Drawing Number 1807_200. The evidence before me, therefore, indicates reasonable doubt that the existing building is structurally sound enough for the works proposed to convert it.
12. Accordingly, I am not persuaded that the building is already suitable for conversion to residential use, and it is likely to require works which would be beyond the scope of the works that would fall within Class Q(b) and paragraph Q.1(i). In coming to this conclusion, I have had regard to the High Court Judgement in the case of *Hibbitt v SSCLG* (2016) EWHC (Admin).
13. I have had regard to the examples put forward by the appellant of conversions of agricultural buildings to residential use, some of which appear similar to this case. However, I am not aware of the extent of work that was required to the existing structures or the supporting evidence that was considered in those cases, so they are not directly comparable. In any event, I have considered this case on its own merits.
14. I therefore conclude that the building operations that are necessary to convert the building would not comply with Q.1(h) as the external dimensions of the building would extend beyond the external dimensions of the existing building and would go beyond the extent of works that are permitted under the terms of Class Q(b) and Q.1(i).

³ PPG Paragraph: 105 Reference ID: 13-105-20180615

Prior approval

15. Given my conclusion that the proposed change of use would not be development permitted under Class Q of the Order, there is no need for me to consider whether or not prior approval would be required as it would not alter the outcome of the appeal.

Conclusion

16. For the reasons given and based on the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the Order. Consequently, it is development for which an application for planning permission would be required. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR