



Appeal Decision

Site visit made on 9 July 2019

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 July 2019

Appeal Ref: APP/A2470/W/19/3221217

The Barns at Cannon House, Pilton Road, North Luffenham, Oakham, Rutland LE15 9PD

- 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 (as amended).
 - The appeal is made by Mr Tim Lamb against the decision of Rutland Council.
 - The application Ref 2018/1151/PAD, dated 1 November 2018, was refused by notice dated 19 December 2018.
 - The development proposed is change of use of barn to 3no. dwellings.
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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) for change of use of barn to 3no. dwellings at The Barns at Cannon House, Pilton Road, North Luffenham, Oakham, Rutland LE15 9PD in accordance with the terms of the application Ref 2018/1151/PAD dated 1 November 2018 and the details submitted with it, subject to the condition set out at paragraph Q.2(3) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and subject to the following conditions:
 - 1) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers; 1285-01; 1285-02; 1285-03 and 1285-04 Rev B.
 - 2) No development above ground level shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed in writing by, the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Procedural Matters

2. The description of development in the heading above has been taken from the Council's decision notice and the appellant's appeal form rather than the application form, as it more concisely and accurately describes the nature and extent of the proposal. I have determined the appeal accordingly.

Main Issue

3. The main issue is whether or not the proposed development would constitute permitted development in respect of Schedule 2, Part 3, Class Q of the Town

and Country Planning (General Permitted Development)(England) Order 2015 (the Order) as amended.

Reasons

4. Schedule 2, Part 3, Class Q of the Order sets out that development is classed as permitted development if it consists of; (a) 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 Order; or (b) development referred to in paragraph (a) together with any building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.
5. Paragraph Q.1 sets out the circumstances in which development is not permitted and paragraph Q.2 sets out the conditions which apply to Class Q development including the need to submit an application to the local planning authority for determination as to whether their prior approval will be required.
6. The Council refused the appellant's notice of prior approval on the basis that the work proposed to facilitate the use of the subject building as dwellings went beyond that envisaged by the provisions of Part Q and that as a consequence it would not be capable of functioning as dwellings. The works proposed would, the Council state, be tantamount to the construction of new dwellings rather than the conversion of the existing building. The Council reach this conclusion drawing on the findings of the Hibbitt¹ case to support their position.
7. The existing building's steel frame forms 6 bays, the bays infilled by concrete blockwork with corrugated panels above. A smaller, lean-to structure of similar construction to the main building has been added as an extension in the past, the two elements of the building separated internally by a concrete block wall which would, following the removal of the lean-to element, be retained as an external wall for the proposed dwellings.
8. The building has a substantial and solid concrete slab floor, the condition of which appeared, upon visual inspection, to be in a sound state. So too, the building's framework and concrete blockwork walls. Although I saw there to be some holes in the corrugated wall panels these too appeared to be in a generally sound state. The floor slab, frame and existing blockwork walls would be retained within the proposed development, with the existing blockwork walls on all four sides (including the currently 'internal' wall) retained and extended in height. The wall cladding and roof materials would be replaced with timber cladding and standing-seam zinc roof panels.
9. The Council draw on the conclusions reached in the Hibbitt case but also acknowledge differences between that case and the case now before me. Although I do not have the full details of the Hibbitt case, the building in that instance is described by the Council as being open on three sides. I am satisfied that that is not, nor would not, be the case in this instance and that substantial and significant elements of the existing building would be retained.
10. The steel frame and slab floor in the current instance are described by the appellant as having full-load bearing capacity whilst no structural elements would be required. The existing blockwork walls, already of a reasonable

¹ Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council 2016 EWHC 2853

height, would have additional courses added thereby increasing their height but also retaining the character and appearance of the building as a steel framed building with blockwork plinth walls.

11. These works would, I am satisfied, fall within the scope of building operations considered acceptable by the Order². The building is not, to use the phraseology expressed in the Hibbitt case, so skeletal or minimalist that the proposed works amount to a rebuild or 'fresh build'. Nor would they go beyond the threshold of being 'reasonably necessary for the building to function as a dwelling house', as set out in guidance contained within Planning Policy Guidance³.
12. In addition to the Hibbitt case, the parties have also referred me to other decisions which support their respective cases⁴. From the limited information of those cases that I have before me, it strikes me that they highlight the differences between the condition and extent of the buildings in question. These add weight to my conclusions in respect of the matter before me and confirm my conclusion that the extent of works proposed would not amount to new building works sufficient to amount to rebuilding or a 'fresh build'. The proposal would not be beyond the scope of Class Q.
13. The second element of the Council's refusal reason relates to the provisions of paragraph Q.1(h) which requires that the development does not extend beyond the external dimensions of the existing building at any given point. The existing upper portions of three of the building's four elevations are fitted with corrugated sheeting, with the rise-and-fall of the corrugations standing clearly and definitively proud of the blockwork walls below.
14. It may well be the case that the timber cladding with fixings may extend beyond the external dimensions of the recessed element of the corrugations. It may also be the case that the cladding would not project beyond the protruding element of the corrugations although the appellant acknowledges that there may be some extension beyond existing dimensions, but such extension would be minimal. However, although I do not have detailed sectional drawings of the proposed works, the available evidence⁵ shows that there would not be a significant difference in projection between the faces of the rendered blockwork and the cladding above in this instance.
15. I am, in any event, mindful of the conclusions recently reached with respect to a proposal elsewhere within the Council's area⁶ and which both parties consider raises similar issues to those in the case currently before me. In that instance the Inspector noted that, notwithstanding the wording of paragraph Q.1(h), other elements of building operations permitted by the Order⁷ may inadvertently lead 'to very minor increases in external dimensions of specific elements or areas of a building'. It is not a matter for me to attempt to second-guess the drafting intentions of those charged with writing the Order. However, given the context of the proposal and the arguments put forward, and mindful of the conclusions recently reached in respect of a similar proposal,

² Paragraph Q.1.(i)(i)(aa)

³ Planning Practice Guidance - paragraph: 105 Reference ID: 13-105-20180615

⁴ APP/A2470/X/18/3211530 and APP/A2470/W/18/3211533 (LPA) and APP/A2470/19/3221197 (Appellant)

⁵ Including the content of Drwg No: 1285-04 Rev B

⁶ APP/A2470/19/3221197

⁷ Paragraph Q.1(i)(i)(aa) or (bb)

I do not consider it unreasonable or inappropriate to conclude that the proposal would meet the requirements of paragraph Q.1(h).

Other Matters and Conditions

16. The Council raise no other concerns in relation to the other provisions of paragraph Q.1, nor have I been presented with any further reasons that would lead me to reach a different conclusion to that reached by the Council. However, notwithstanding their conclusions against the provisions of paragraph Q.1 (h) and (i), the Council have considered the proposal against the 'prior approval' matters of paragraph Q.2 of the Order.
17. The Council's assessment of the prior approval conditions set out at paragraph Q.2 of the Order is quite clear in that there would be good visibility in both directions at the existing point of access⁸, noise impacts of the development would be unlikely to be significant⁹, no objections are raised regarding contamination¹⁰ or flood risks¹¹ and the site's location would not make it otherwise impractical or undesirable for the building to change from agricultural to a use falling within Use Class C3 (dwellinghouses)¹². Prior approval may be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval¹³.
18. The Council have suggested three conditions. I agree that a plans condition is necessary in the interests of certainty, as is a materials condition pursuant to paragraph Q.2(1)(f). However, I have not imposed a ground contamination condition as I have not been provided with sufficient justification to do so, given the absence of comment or objection on such matters in the Council's submissions. The Order also states, at paragraph Q.2(3), that development under Class Q is permitted subject to the condition that development under Class Q(a) and / or Q(b) must be completed within a period of 3 years starting with the prior approval date.

Conclusion

19. For the reasons set out above, I conclude that the appeal should be allowed and prior approval is granted.

Graeme Robbie

INSPECTOR

⁸ Paragraph Q.2 (1)(a)

⁹ Paragraph Q.2 (1)(b)

¹⁰ Paragraph Q.2 (1)(c)

¹¹ Paragraph Q.2 (1)(d)

¹² Paragraph Q.2 (1)(e)

¹³ Part W (13)