



Appeal Decision

Site visit made on 11 June 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 24th July 2019

Appeal Ref: APP/N4720/W/19/3225013

Agricultural Building/ Barn, Adjacent to The Beeches, Backstone Gill, Wike, Nr Leeds LS17 3JS

- 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 Eric Pickard against the decision of Leeds City Council.
 - The application Ref 18/06006/DPD, dated 15 May 2018, was refused by notice dated 05 February 2019.
 - The development proposed is the conversion of the existing building to a single detached dwelling, the existing position, footprint and profile will be retained as will the existing site curtilage and site entry.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal scheme is a change of use of an agricultural building to a dwelling house (Class Use C3). Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of Q(a) 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 of the Use Classes Order¹, and Q(b) building operations reasonably necessary to convert the building.
3. The starting point is therefore whether the proposal falls within permitted development. In this respect, the Council considers that the proposal would not accord with Class Q(a) on the grounds that the curtilage for which a change of use is sought does not comply with the criteria set out at paragraph X of the GPDO. Furthermore, the Council considers that the building operations required to convert the building are not within the scope of works set out at Q.1(i) and the proposal is not therefore permitted under Class Q(b).
4. The description of the development in the heading above is taken from the application form and it includes the retention of the existing site curtilage and site entry. This is shown on the plans that were determined by the Council, including the Site Location Plan (ref 589-01). In its evidence, the Council refers to a revised plan (ref 589-01 A) which was not accepted on the grounds that it did not include the proposed access and parking. Although that plan has not

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

been submitted to the appeal, a further amended plan (ref 589-11) which does illustrate access and parking has been submitted for information purposes.

5. The Planning Inspectorate's guidance² states that 'if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh application' and 'the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.'
6. In this case, the amended plan indicates a much smaller curtilage and altered access arrangements. It does not relate to the description of the development and it is not the scheme that was applied for and considered by the Council. On that basis, I cannot be certain, if I were to accept it, that no interested parties would be prejudiced by my so doing. I have therefore determined the appeal on the basis of the plans upon which the Council made its decision.

Application for costs

7. An application for costs was made by Leeds City Council against Mr Eric Pickard. This application is the subject of a separate Decision.

Main Issue

8. The main issue is whether the proposal would be permitted development, with regard to whether the requirements of Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO would be met.

Reasons

9. The GPDO states at paragraph Q.1(i) that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or external walls or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.
10. The Planning Practice Guidance (PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, 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, would be permitted. However, the PPG clarifies 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 is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right.
11. The Visual Structural Inspection Report prepared by CAS Structural Engineering dated 20th September 2018 identified structural works that would be required to convert the appeal building. These include a replacement roof, which would

² Procedural Guide – Planning Appeals – England dated 19 March 2019

be heavier than the existing and which would therefore require enhancement of supporting structural items, together with new load bearing walls and new foundations. The submitted plan, Proposed Structural Arrangements & Details (A2), confirms the need for new load bearing piers on new local foundations at ground floor level. The plan also indicates new partial roof beams and a modified roof truss.

12. The proposed new load bearing piers, foundations and new and modified roof supports are structural elements, the addition of which would fall outside of the alterations permitted by Class Q(b) and paragraph Q.1(i) having regard to the PPG.
13. In order to benefit from the permitted development rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must involve only building operations reasonably necessary to convert the building in accordance with the definition at Class Q(b) and paragraph Q.1(i). Based on the evidence before me, it has not been demonstrated that the required works would be limited to building operations reasonably necessary to convert the building, so as to be permitted development under Class Q.
14. For the reasons set out above, I have found that the proposed works necessary to convert the building would fall outside of those permitted under Class Q(b) of the GPDO. It is not therefore strictly necessary for me to consider whether the proposal would meet the requirements of Class Q(a) with particular reference to the curtilage of the building. However, I note that there is a dispute between the parties, and evidence has been submitted to the appeal, in respect of this matter.
15. Paragraph X of the GPDO interprets Part 3, setting out that for the purposes of Class Q, "curtilage" means (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately around the agricultural building no larger than the land occupied by the agricultural building, *whichever is the lesser*.
16. The description of the development on the application form includes the retention of the existing site curtilage and site entry. The accompanying site plan (ref 589-01) clearly indicates that the curtilage of the building is larger than the land occupied by the agricultural building. At the time of my visit, it was apparent that this curtilage relates to the established fenced enclosure around the agricultural building, which includes the existing access to the highway and hardstanding to the front and side of the building. This fenced enclosure can be readily distinguished from the immediately adjacent agricultural land, instead having the appearance of land associated with and serving the purpose of the agricultural building. I therefore find that for the purposes of Class Q, the curtilage is larger than the land occupied by the building. The proposal would not therefore be permitted by Class Q(a) of the GPDO.
17. Subsequent iterations of the site plan submitted to the Council and the appeal have sought to reduce the curtilage in order to address the requirements of paragraph X for the purposes of Class Q(a). For the reasons explained above, I have not accepted the amended plan. However, as can be seen from this decision, even had I accepted the amended plan it would not have affected the outcome of the appeal.

18. Given my conclusion that the proposed change of use would not be development permitted under Class Q of the GPDO, prior approval cannot be considered.
19. I have been made aware that the appeal building is in the Green Belt. However, planning policy on the Green Belt is not relevant to consideration under Class Q of the GPDO.

Conclusion

20. For the reasons given and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Consequently, it is development for which an application for planning permission would be required. This would be a matter for the local planning authority to consider in the first instance, and cannot be addressed through prior approval provisions set out under paragraph Q.2(1) of the GPDO.
21. The appeal should therefore be dismissed.

Sarah Manchester

INSPECTOR