
Appeal Decision

Site visit made on 6 August 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2019

Appeal Ref: APP/L1765/W/19/3228013

Bluebell Farm, Burrow Road, Ham Green, Sparsholt, Winchester, Hampshire SO21 2PA

- 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 and Mrs Cameron against the decision of Winchester City Council.
 - The application Ref 19/00031/PNACOU, dated 17 December 2018, was refused by notice dated 12 February 2019.
 - The development proposed is the conversion of an agricultural building into a dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council point out that the wording in the decision notice contained an error such that it referred to "*building operations which could reasonably be necessary for the building to function as a dwelling house*" when they intended to say the opposite. Notwithstanding this, I am satisfied that when the decision notice is read as a whole and taken in context with the officer report, it was reasonably clear that the Council had concerns in relation to the nature of the building operations. Furthermore, in their statement the appellants provided a comprehensive analysis of the proposal in relation to the requirement of Class Q (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) relating to the matter of building operations. As such, neither party would be prejudiced by my consideration of this as a main issue in determining the appeal.

Main Issues

3. The main issues are:
 - Whether the proposal would be permitted development, with particular regard to whether the requirements of Class Q(b) of the Order would be met, and;
 - Whether the requirements of paragraph Q.1(a) would be met, and;

- If so, whether or not prior approval would be required in relation to the design or external appearance of the building in accordance with the condition set out in paragraph Q.2(1)(f) of the Order.

Reasons

Whether the proposal would be permitted development under Class Q(b)

4. Class Q(b) of the Order permits building operations reasonably necessary to convert the relevant building to a use falling within Class C3. It further 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 exterior walls, or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse.
5. The agricultural building in question is a timber framed structure with various monopitch roofs in profiled metal sheeting. It has a concrete floor for most of the building, but the floor is compacted chalk at its westernmost section. Aside from some limited sheeting, it is predominantly open on the northern elevation, with a combination of openings, intermittent timber boarding and sheeting on the eastern elevation. The remaining elevations are clad in single skin profiled sheeting.
6. The structural report and annexe¹ states that the building would be structurally capable of conversion to residential use and I have no contrary evidence that the building would not be able to take the loading associated with the external works proposed. Nevertheless, the submitted plans and the structural report indicate that the proposed works include an inner timber stud insulated lining to provide all the walls and a ceiling within the existing frame. The roof timbers would need to be realigned with some additional roof timbers strutted off the new structural ceiling. The elevational drawing² and generated computer images show the replacement of the existing external cladding with a combination of timber and metal cladding on the roof and external walls, which would infill the currently open parts of the elevations, along with the insertion of doors and windows. Furthermore, it would be necessary to repair the partially concreted floor and extend it in part, with the replacement of the compacted chalk floor. Cumulatively, these include works that amount to extensive building operations.
7. Planning Practice Guidance (PPG) advises that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling, clarifying that it is not the intention of the permitted development right in Class Q(b) to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. In this respect the PPG refers to relevant case law³ to which I have had regard.
8. The caselaw established that Class Q(b) only permits building operations necessary to convert the building, and therefore if a development does not amount to a conversion then it fails at the first hurdle, even though the

¹ WRD Engineers dated 15 March 2018

² Drawing Reference 2764.18-EL-OPT2 Revision 2

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

building operations may fall within those listed in paragraph Q.1(i). Furthermore, whether a proposal constitutes a conversion or a rebuild is a matter of planning judgement and the nature and extent of the proposed building operations are a relevant consideration in making that assessment. In this case, from my own observations and the information in the structural report and plans, the cumulative extent of the works proposed to facilitate a residential use would be of such a degree that they would go beyond what might reasonably be described as a conversion, as in practical terms, the proposed development would need to start afresh with only a modest amount of help from the original agricultural building.

9. Although the appellant refers to an appeal⁴ whereby the Inspector in that case was satisfied that the building was capable of conversion, he states that the structural report described the building as being in good structural condition with a reinforced concrete ground floor slab and steel portal frame. This is different to the case before me whereby there is limited information regarding the condition of the floor and foundations, with the timber frame described as being in only reasonable condition. Moreover, the advice in the PPG⁵ has subsequently been revised since the appeal decision. These factors when taken together indicates that it is of limited relevance as a direct comparison to the appeal proposal. I therefore give it little weight.
10. I am further referred to a structural report relating to a separate decision of the Council⁶ where the agricultural building in question had an open side and some earth flooring, but overall, was considered capable of conversion to a residential use. Be that as it may, given the limited information provided, I am not assured that the Council decision was made taking into account the Hibbitt judgement as the date of the structural report provided precedes it.
11. In any event, I am required to reach my own conclusion based on the proposal, my own observations and the evidence before me. Therefore, it follows that on the evidence provided, the building would not benefit from the permitted development rights under Schedule 2, Part 3, Class Q(b) of the Order.

Paragraph Q.1(a) solely used for an agricultural use as part of an established agricultural unit

12. Paragraph Q.1(a)(i) of the Order only permits development under Class Q where *'the site was not used solely for an agricultural use as part of an established agricultural unit –*

(i) on 20th March 2013, or

(ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or

(iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins;'

13. The Order defines the term 'established agricultural unit' as agricultural land occupied by a unit for the purposes of agriculture. The appellants have

⁴ Reference APP/L1765/W/15/3135101

⁵ Paragraph 105 Reference ID:13-105-20180615 Revision date 15 06 2018

⁶ 16/007/10/PNACOU Malms Farm

submitted two signed and dated sworn declarations⁷ which refer to a plan including the appeal building and associated land, and I am referred to an appeal⁸ whereby an Inspector found sworn declarations to provide reasonable evidence in relation to establishing the agricultural use of the building in that case.

14. The first declaration provided in relation to the case before me is from the previous owner of the land and establishes that at the point of sale to the appellants in October 2012 the land was solely in agricultural use as part of Bluebell Farm. The appellants' declaration confirms that following the sale up until, and on 20 March 2013 the land was solely in agricultural use including for the storage of a tractor and hay. The attached plan shows the appeal site as forming part of an established agricultural unit at Bluebell Farm. As such, this evidence is specific as to identifying the relevant building, the specific date and use.
15. Furthermore, the use of the appeal site on the requisite date, is generally corroborated by other correspondence with the Council near to that time indicating that the authorised use of the land was agricultural. Notwithstanding the reservations of Sparsholt Parish Council and the Council's assertion that the building may have been used for the keeping and riding of horses that would mean it was not solely in agricultural use, I have little evidence to substantiate that this was the case on the relevant date.
16. Therefore, the balance of evidence before me shows that the building was used solely for an agricultural use as part of an established agricultural unit on 20th March 2013. Nevertheless, this does not overcome or dispense with the need to meet the requirements of Class Q(b) of the Order.

Paragraph Q.2(1)(f) design or external appearance of the building

17. Given my finding that the appeal proposal would not be development permitted under Class Q(b) of the Order, there is no need for me to consider whether or not prior approval should be given for the design or external appearance of the building in accordance with the condition set out in paragraph Q.2(1)(f) of the Order. This condition would only apply in circumstances where the proposed development was considered to amount to permitted development within the terms and limitations of Class Q, and my consideration of it would not alter the outcome of the decision.

Other matters

18. I have had regard to comments received which highlight the secluded nature of the site and absence of harm to the adjacent public right of way. Be that as it may, I am required to consider the proposal against the scope of the permitted development rights in Class Q of the Order. As such, these matters would not lead me to a different view.

⁷ Mark Nicholas Hambridge dated 18 December 2018; Guy Fraser Dougal Cameron and Sarah Jane Cameron dated 18 December 2018.

⁸ Reference APP/K2420/W/18/3210268

Conclusion

19. For the reasons given and based on the evidence presented, I conclude that the proposal is not permitted development within Schedule 2, Part 3, Class Q of the Order. The appeal, is therefore, dismissed.

Helen O'Connor

Inspector