



Appeal Decision

Site visit made on 1 October 2019

by Matthew Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th November 2019

Appeal Ref: APP/F3545/W/19/3231678

Nissen Grainstore, Ducks Hall, Ducks Hall Lane, Cavendish

- 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 and Mrs Willemsen against the decision of West Suffolk Council.
 - The application Ref DC/19/0290/P3QPA, dated 16 February 2019, was refused by notice dated 31 May 2019.
 - The development proposed is described as 'The building will be converted into three dwellings each with 100m² of floor space. The building will be clad in anthracite grey roof cladding and have aluminium windows of the same colour. The end elevations will be clad in cedar weather boarding'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Planning Practice Guidance (PPG) advises that the starting point for Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)(GPDO) is that the permitted development rights are a grant of planning permission, subject to the prior approval requirements. Therefore, it is necessary in the first instance to determine whether the proposal falls within the scope of permitted development.
3. Class Q of the GPDO states that 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, is permitted development.
4. Where development is proposed under Class Q(a) together with Class Q(b), and found to be permitted development, it is subject to the condition under paragraph Q.2(1) that before beginning the development, an application must be made to the local planning authority for a determination as to whether the prior approval will be required as to (a) transport and highways impacts, (b) noise impacts, (c) contamination, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building.

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

5. The main thrust of the Council's contention is that the works required to convert the building to dwellings would not be 'reasonably necessary' as they consider that the existing building is not structurally robust to the extent that it would be capable of conversion without significant additional works.

Main Issue

6. Having regard to the above, the main issue in this case is whether the extent of the building operations required would be reasonably necessary to convert the building to dwellings, having regard to the requirements of Class Q of the GPDO.

Reasons

7. There is no dispute between the main parties that the appeal site is occupied by an agricultural building, and was solely in agricultural use as part of an established agricultural unit on, or before 20 March 2013, without any intervening non-agricultural uses having taken place in between.
8. The appeal building comprises a Nissen hut type building with a floor area of approximately 298m². The building construction comprises a concrete wall with an internal height of *circa* 0.9m which makes up the perimeter of the building's footprint. An arched steel frame is bolted to the top of the wall which supports a series of horizontal steel rails from which a number of sheets are attached and provide cladding to the building.
9. The PPG 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. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right'.
10. In light of the appellant's structural evidence before me, which has been prepared by a Chartered Structural Engineer and a Chartered Building Surveyor, I have seen nothing in the Council's evidence of sufficient pertinence to question the veracity of the appellant's reports concerning the overall structural integrity of the steel frame, and the conclusion that the steel frame structure would be sufficiently robust to support the cladding and other works necessary to create new dwellings.
11. However, even though I find no reason to question the structural integrity of the appeal building, on the basis of what I saw on my site visit and the evidence before me, which includes clarification in the submitted surveys that the new cladding materials would weigh less than the existing, and confirmation of the new building cladding contained within the application form and e-mail correspondence between the appellant and the Council, it is reasonable to conclude from these details that the existing building cladding would mainly be replaced with new grey roof cladding and cedar weather boarding.
12. In this regard, the totality of the works required to ensure the building was capable of habitation would amount to a comprehensive rebuild of the walls and roof cladding of the building which would comprise an almost complete replacement of the existing external fabric. In the context of a recent court

judgment², the proposal would amount to substantial re-building. Consequently, I find that the appeal building is not capable of conversion to a residential use without comprehensive rebuilding works, and the works required would not be reasonably necessary.

13. Notwithstanding my foregoing observations, neither the plans nor the evidence submitted show that the building would project beyond the envelope of the existing building, in compliance with paragraph Q.1(h) of the GPDO.
14. Nevertheless, in order to benefit from the permitted development rights, the proposal must only involve building operations reasonably necessary to convert the building in accordance with paragraph Q.1(i). Based on the evidence before me and my own observations of the existing building, 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.

Other Matters

15. The principle of development is established through the grant of permission by the GPDO. Therefore, as I have no need to consider the 'prior approval' matters set out in Paragraph Q.2(1) of the GPDO, there has been no reason for me to assess the proposal against the development plan or any other relevant planning policies.
16. A number of concerns have been raised by local residents including, but not limited to, highways and design matters. As I have concluded that the proposed change of use would not be development permitted under Class Q of the GPDO, 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

17. For the reasons given above I conclude that the proposal is not permitted development and that the appeal should be dismissed.

Matthew Woodward

INSPECTOR

² See *Hibbitt vs Secretary of State for Communities and Local Government* [2016] EWHC 2853 (Admin)