



Appeal Decision

Site visit made on 14 October 2019

by Rachael Pipkin, BA (Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th November 2018

Appeal Ref: APP/W1850/W/19/3233958

Dutch Barn, Woodcroft Farm, Fromes Hill, HR8 1QJ

- 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 Jon Baker against the decision of Herefordshire Council.
 - The application Ref: 191548 dated 30 April 2019, was refused by notice dated 6 June 2019.
 - The development proposed is application for proposed change of use of an agricultural building to a single larger dwelling/house (Class C3) and for associated operational development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As no description of development was provided on the application form, I have taken the description of development given above from the Council's decision notice. This is a more accurate and precise description of the development but broadly consistent with that set out on the appeal form which describes the proposed development as 'Application of Prior Approval of Proposed Change of Use of Dutch Barn to Dwelling House (Use Class C3).' I have determined the appeal accordingly.
3. Since the application was determined the appellant has submitted amended drawings to address the Council's first reason for refusal with regards to compliance with Class Q.1 (h) of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015). Since these drawings include a number of changes to those which the Council made their decision on and upon which locally interested parties had been notified, I am not satisfied that the interests of those parties would not be prejudiced if I were to take the revised drawings into account in my decision. I am therefore considering the appeal on the basis of the same plans the Council used to make their decision.

Main Issues

4. The main issue is whether the proposed development would comply with the conditions, limitations or restrictions applicable to development permitted by Schedule 2, Part 3, Class Q of the GPDO 2015.

Reasons

5. Schedule 2, Part 3, Class Q of the GPDO 2015 permits development consisting of 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 (dwelling/houses). Paragraph X provides interpretation for Part 3 in which 'curtilage' means, for the purposes of Class Q, R or S only, (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 beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.
6. The submitted location plan drawing Rev B includes a 1:2500 scale location plan showing the building shaded in red and surrounded by a red line defining land around it to the north, west and south. I take this red line to be intended as showing the curtilage proposed. From a visual assessment, the curtilage area on this plan, which is indicated to be 779 sq.m appears to be considerably greater than the area occupied by the building.
7. Whilst the area of curtilage might be amended to be no greater than the floor space of the building it is not the purpose of the appeal process to evolve a scheme and it is important that, for reasons I have already set out, the facts before me are essentially those considered by the Council. As a consequence, I have not sought further comment from the parties on this matter.
8. As the curtilage appears to be larger than the footprint of the building, this does not meet the restrictive definition in Paragraph X.
9. The Council's reasons for refusal do not refer to the matter of curtilage size. Reason 1 relates to whether the proposed development meets the requirements of Paragraph Q.1 (h). This states that development is not permitted by Class Q if the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.
10. The proposed development includes the installation of photo-voltaic panels and a flue to the roof of the existing building. These are not included in the list of permitted building operations at Paragraph Q.1 (i) which are limited to the installation or replacement of windows, doors, roofs, exterior walls and utility or other services.
11. Whilst I accept that these are small additions to the roof, they would nevertheless extend beyond the roof plane of the existing building. This would result in the external dimensions of the converted building extending beyond the external dimensions of the existing building. For this reason, the development does not fall within the scope of that permitted by Class Q.1 (h).
12. My attention has been drawn to a recent appeal decision¹ at Manor Farm Barn, Thistleton Road, Market Overton, Oakham, Rutland, LE15 7QE for a similar conversion scheme and related to the replacement of corrugated sheeting with timber cladding as permitted building operations under Paragraph Q.1 (i). I note the Inspector's findings that such building operations could inadvertently lead to very minor increases in the external dimensions of specific elements or

¹ APP/A2470/W/19/3221197

areas of the building. However, the development before me does not fall within the scope of permitted building operations under Paragraph Q.1 (i) and is not therefore directly comparable to the circumstances in that appeal.

13. I have also been made aware of an allowed appeal² at Wicton Lane, Bromyard, HR7 4LP for another conversion scheme relating to a Dutch barn. However, I do not have the full details of that scheme before me, but I note that the matters in dispute related to whether the works proposed exceeded those reasonably necessary for a conversion and would result in the creation of a new building. It is also therefore not directly comparable to the scheme before me.
14. I have also been referred to a High Court ruling involving Hibbitt³, where it was found that the scheme in question amounted to new-build construction rather than conversion. However, as the matter in dispute relates to the installation of a flue, and photo-voltaic panels and whether they extend beyond the external dimensions of the building, this judgement does not appear directly relevant to the matter before me.
15. In view of my findings above there is no need for me to consider or to make a determination on the prior approval matters.
16. For the reasons outlined above I conclude that the proposed development would not comply with the conditions, limitations or restrictions applicable to development permitted by Schedule 2, Part 3, Class Q of the GPDO 2015.

Other Matters

17. I acknowledge that the appellant feels frustrated that the amendments to the scheme were not considered during the application process. However, that is not a matter before me.
18. The appellant has suggested that the inclusion of the solar panels was to make the scheme more energy efficient and to accord with the Council's plans to address climate change. Whilst I acknowledge this, the matter before me relates to whether the scheme would be permitted development and not its planning merits.

Conclusion

19. For the reasons set out above, I conclude that the appeal should be dismissed.

Rachael Pipkin

Inspector

² APP/W1850/W/18/3216155

³ Hibbitt v Secretary of State for Communities and Local Government [2016]