



Appeal Decision

Site visit made on 3 September 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 November 2019

Appeal Ref: APP/F2415/W/19/3230961

**Building to the north of Laughton Road, Theddingworth, Lutterworth
LE17 6QG**

- 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, Paragraph Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Tim Lewis against the decision of Harborough District Council.
 - The application Ref 19/00408/PDN, dated 14 December 2019, was refused by notice dated 14 May 2019.
 - The development proposed is change of use of agricultural building to a Dwellinghouse (Class C3), and for Associated Operational Development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council concluded that the building's last and current use is agricultural. Based upon the evidence before me, and from my inspection of the site, I would concur with its conclusion on this matter.
3. I have taken the description of the development from the heading on the application form since the details provided in Part 5 of the application form do not describe the proposed development but refer to supporting statements and other documents. This description matches the first part of the description used by the Council on its decision notice and the first part of the description used by the appellant on the appeal form.

Main Issues

4. The main issue of the appeal is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

5. Class Q 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 (dwellinghouses) of the Schedule to the Use Classes Order¹ and any building operations reasonably necessary to convert the building.

¹ SI 1987/764 – The Town and Country Planning (Use Classes) Order 1987, as amended.

6. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It states that development is not permitted if it would consist of building operations other than: (i) the installation or replacement of — (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
7. The Planning Practice Guidance (PPG) provides further clarification and 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.
8. The appeal building comprises a steel portal framed building with two side lean-to extensions. The right-hand side lean-to extension would be removed. The appellant has submitted a structural survey which concludes that the lean-to is unsuitable for conversion due to considerable purlin and rafter deflections with opening of joints. From my inspection of the building I would concur that the demolition works proposed are reasonably necessary.
9. A series of suspended pre-cast concrete panels are fixed to the steel structure on the side elevations to approximately 2.4m in height with vertical open joint timber boards above four of the five panels on the western elevation. No boards are present above the concrete panels on the eastern side of the building and the lean-to is open to the front and rear. Plywood panels are fixed to the front and rear of the building to approximately 2.4m in height with vertical open joint timber boards above. The roof is constructed of corrugated fibre sheeting and there is an earthen floor. The timber boarding shows signs of weathering and disrepair and the roof appeared to be constructed of asbestos cement, though this has not been confirmed by independent analysis.
10. Within the Appellant's Statement of Case it is stated that all existing external walls, cladding, roof coverings and steel frame would be retained and form integral parts of the conversion. It is asserted that the cladding would not require removal but would have ply board installed with a membrane behind. Lower level cladding to the two gables would be removed and replaced with spaced boarding to match the open joint timber boards above.
11. The roof covering and elevations would be insulated internally. Windows and doors would be inserted, including substantial fenestration to the front elevation. Elevations and roof covering would be insulated, and plasterboard fitted throughout and a floor would be installed. Living accommodation would be provided at ground floor level only.
12. The appellant has submitted a report based upon a visual inspection which suggests that the steel structures are suitable for conversion to a domestic property. It is proposed that the existing steel frame would provide all of the structural support. The structural integrity of the steel frame is not disputed by the Council and, following my inspection on site, I see no reason to doubt that the structure would be capable of conversion.
13. There are large sections of the building where new sections of wall would have to be constructed, for example, to the front and rear of the lean-to, above the

concrete panels on the right-hand side of the building and above one of the concrete panels on the left-hand side of the building. Furthermore, although the existing pre-cast concrete panels and open joint timber boards would be retained, they do not themselves form complete walls. Solid walls would need to be provided in order for the building to be suitable for human habitation. The appellant advises this would be done using plywood which would sit behind the cladding and concrete panels.

14. The construction of new walls and floor internally to insulate and waterproof the building, and externally for weatherproofing, could, in my view, fall within the category of reasonably necessary for the building to function as a dwellinghouse. However, the PPG and the notable judgement in the Hibbitt² case make it clear that the development should not be so extensive as to amount to a 're-build' or 'fresh build', by, for example, reducing the building to a skeletal structure before reconstructing.
15. I accept that there are four elevations in situ and that the structural frame is suitable for conversion. However, the operational development required to convert the building would be substantial. Given the extent of the works that would be necessary, this would, in my view, constitute a re-build.
16. The appellant has drawn my attention to a series of appeal decisions³ which considered proposals under Part Class Q of the GPDO. However, I have not been provided with substantive details and, on the basis of the evidence before me, I am not persuaded that these are comparable to the appeal scheme. Furthermore, I have considered appeal on its own merits.
17. Thus, I conclude that the proposal would be not be a conversion and as such, would not constitute a form of permitted development under Schedule 2, Part 3, Class Q of the GPDO, having regard to the associated guidance within the PPG.

Conclusion

18. 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.
19. The appeal is, therefore, dismissed.

M Savage

INSPECTOR

² Hibbitt v SSCLG [2016] EWHC 2853

³ APP/D0840/W/16/3143012, APP/M0655/W/18/3201866, APP/N2739/W/15/3003584, APP/V3310/W/17/3181124