



Appeal Decision

Site visit made on 3 September 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 2nd December 2019

Appeal Ref: APP/R0660/W/19/3229566

Hurst Hall, Wrenbury Road, Marbury, Cheshire East SY13 4LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Richard Evans against the decision of Cheshire East Council.
 - The application Ref 19/0751N, dated 12 February 2019, was refused by notice dated 05 April 2019.
 - The development proposed is conversion of agricultural building into 2 dwellings as shown on submitted drawings.
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Decision

1. The appeal is dismissed.

Procedural Matters

1. 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.
2. In this case, 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).

Main Issue

3. Therefore, the main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q(b) of the GPDO, with regard to the extent of operations required to convert the agricultural building to a dwellinghouse.

Reasons

2. Paragraph Q.1(i) of the GPDO states 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

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

include partial demolition to the extent reasonably necessary to carry out such building operations.

4. 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. Therefore, it is only where the existing building is already suitable for conversion that it would be considered to have the permitted development right.
5. The appeal building is a modern steel framed portal building. The walls are constructed from railway sleepers below with Yorkshire boarding above. With the exception of two large openings in either gable end, there are no other openings in the building elevations. The corrugated sheet roof is supported by the steel frame and timber purlins. The floor is formed from a ground bearing concrete slab. The building is part of a rural complex of built development which includes a farm house and range of former farm buildings with planning permission for conversion to residential dwellings.
6. As part of the proposal, the steel frame, concrete floor and timber walls would be retained. The roof would be replaced with steel sheet cladding utilising the existing structural supports. The ceiling would be insulated and the walls to three sides of the building would be lined internally with non-load bearing insulated stud walls with a breather membrane to waterproof the dwellings. A large number of window and door openings would be created and glazing would be installed into the existing openings in the gable ends. There would be new internal walls to create the two dwellings and the internal accommodation. A new floor with insulation and underfloor heating would be overlaid on the existing concrete slab. While these works would be extensive, they appear to fall within the scope of what would be permitted under paragraph Q.1(i).
7. The floor space of the existing building is larger than could be converted under permitted development rights. Consequently, the plans show a small sliver of the building at one gable end would remain unconverted. There would be a new 'external' wall for the dwelling at this end of the building inside the agricultural building, set in from the existing gable end wall. The new wall would include three external doorways, two of which would be sliding patio-style doors. However, there is little before me in respect of the new 'exterior' wall in terms of its construction or means of support for the large glazed panels and whether or not it would need to tie in to the steel frame.
8. Moreover, while the proposed floor plan indicates that the external openings in the unconverted gable end would remain open, the appellant's statement and the elevation drawings appear to suggest that new doors/glazing would be fitted in the existing openings in both gable ends. The installation of domestic glazing into the unincorporated gable end wall appears to suggest a degree of conversion not strictly necessary to allow the converted parts of the building to function as a dwellinghouse.

9. The Structural Appraisal report prepared by Chartland Developments LLP concludes that the existing structural elements are in good condition and the building is suitable for conversion. However, this conclusion is based on a visual inspection only and it did not extend to those parts of the structure which are not readily visible or exposed, including the foundations and sub structure. On this basis, there is little before me to demonstrate that the foundations or concrete slab would be adequate to support the weight of the new internal structures and the proposed residential use.
10. The appellant has provided examples of appeal decisions elsewhere relating to the conversion of steel frame portal agricultural buildings. However, while the extent of works to convert those buildings does appear similar to the appeal proposal, full details of those schemes are not before me. I cannot therefore be certain that they are directly comparable or that they provide a justification for the appeal scheme. Moreover, those appeals in any case differ from the scheme before me in that they were supported by structural surveys which demonstrated that the floor slabs were adequate to support the proposed domestic use.
11. 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 building is suitable for conversion or 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. In coming to this conclusion, I have had regard to the High Court Judgement in the case of *Hibbitt v SSCLG* [2016] EWHC 2853 (Admin).
12. 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) and Q.1(i) of the GPDO.
13. Given my conclusion 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

14. 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.
15. The appeal should therefore be dismissed.

Sarah Manchester

INSPECTOR