



Appeal Decision

Site visit made on 18 November 2019

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2019

Appeal Ref: APP/C3105/W/19/3235252

Barn at Godwins Farm, Somerton Road, North Aston, Bicester OX25 6JA

- 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.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Mr and Mrs Peter and Jane Durnin against the decision of Cherwell District Council.
 - The application Ref 19/00667/Q56, dated 5 April 2019, was refused by notice dated 10 June 2019.
 - The development proposed is change of use of agricultural building to a dwellinghouse.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (hereafter referred to as Class Q). This permits development consisting of: (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 to the Use Classes Order; and (b) building operations reasonably necessary to convert the building.
3. Approval is being sought for change of use and associated building operations pursuant to Class Q(a) and Class Q(b) respectively. The Council considered the application on this basis and I shall deal with the appeal in the same manner.
4. The plans submitted with the application do not identify an area of curtilage, but a supplementary plan (Ref. PLA_006B) has been provided as part of the appeal submission. This shows an area of curtilage which is compliant with the definition set out in Paragraph X. Additional drawings have also been provided to aid my understanding of the proposed building operations. No party would be prejudiced by my taking this information into account.

Main Issue

5. The main issue is whether the proposed building operations would fall within the scope of Class Q and whether the proposal would otherwise comply with the limitations and restrictions for being permitted development.

Reasons

6. The basic structure of the appeal building comprises a series of vertical timber posts (much akin to telegraph poles) strapped to similar posts which perform the function of rafters. There are five of these independent 'frames' which are linked by timber purlins supporting a sheet metal roof. The northern part of the barn is enclosed, with concrete blockwork providing bracing for the timber frame. The southern half of the building is open to the sides and at the end, except for some timber boarding on the gable.
7. An open lean-to attachment on the eastern elevation would be removed as part of the proposed development. It is common ground that this structure does not benefit from planning permission and furthermore was not subject to an application to the local planning authority for a determination as to whether its prior approval was required under Schedule 2, Part 6 of the Order. The appellant does not dispute that this structure is unauthorised.
8. Paragraph Q.1(g) of Class Q states that development is not permitted where development under Class A(a) or Class B(a) of Part 6 (agricultural buildings and operations) has been carried out on the established agricultural unit since 20th March 2013. There is no dispute that the structure was erected after that date and the Council therefore contends that the proposal would fall foul of the restriction. However, the lean-to cannot have been erected under Part 6 due to the fact that the correct procedure was not followed. In my view, the existence of the structure would not prevent Class Q development from going ahead, given that it does not form part of the proposed change of use and would be demolished in any event. I am mindful that the Council has enforcement powers to deal with unauthorised development.
9. Although the Council has questioned the accuracy of the plans, it is clear from the additional information provided that the intention is to use the existing building envelope as the basis for the new dwelling. Drawing no. PLA_005 shows the proposed internal layout overlaid on top of the existing building footprint, with the timber posts providing points of reference. This plan was helpful at the site visit and gives a clear indication of the building operations required to facilitate the change of use.
10. The building would be truncated, reducing it from four bays to three. The majority of the blockwork wall separating the enclosed part of the barn from the remainder would be removed and new external walls would be erected on three sides of an open bay to define the southern end of the dwelling. Although there is no evidence on this point, there is the possibility that these walls would need to be supported by foundations or a new floor slab. Whilst some of the existing concrete blockwork in the northern part of the barn is shown to be retained, sections would be infilled and altered to suit the sizes and positions of windows and doors on the plans. By my estimation, at least 40% of the external walls would be new.
11. Class Q(b) permits building operations which are reasonably necessary to convert the building. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations.

12. Paragraph 105 of the Planning Practice Guidance explains that the permitted development right assumes that the agricultural building is capable of functioning as a dwelling. It is not the intention 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. The guidance draws attention to relevant case law¹ on the difference between conversions and rebuilding. The latter would not be permissible under Class Q, but the judgement in each case is one of fact and degree.
13. The appellant has provided a report from a chartered engineer which concludes that, from a structural perspective, the building could function as a dwelling without any additional core structural elements. Notwithstanding this, it remains the case that the proposal must maintain the character and substance of a conversion in order to benefit from Class Q permitted development rights.
14. The building before me, or at least the southern end of it, would not be capable of functioning as a dwelling without the construction of external walls on three sides. In my judgement, this goes well beyond what could reasonably be described as a conversion, notwithstanding the re-use of the timber frame and roof structure. Self-evidently, this would not be a complete rebuild, but equally it would not fall within the parameters of Class Q.
15. Even if I had taken the opposite view, the addition of timber cladding would, as a matter of fact and interpreting the regulations objectively, bring the scheme into conflict with paragraph Q.1(h). This stipulates that the development should not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. That the cladding would not project significantly from the existing frame does not alter my finding that the limitation would be infringed.
16. I therefore conclude that the works necessary to facilitate change of use of the building to a dwelling would not fall within the scope of that permissible under Class Q. Accordingly, they would not be permitted development and on this basis the appeal must fail.

Robert Parker

INSPECTOR

¹ Hibbitt and another v SSCLG (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)