
Appeal Decision

Site visit made on 10 December 2019

by Peter Mark Sturgess BSs (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State.

Decision date: 27th December 2019

Appeal Ref: APP/D0515/W/19/3238732

Farm Building, Bank Farm, Whittlesey Road, Benwick, March PE15 0XJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q, Paragraph Q.2.(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr G. Burton against the decision of Fenland District Council.
 - The application Ref F/YR19/0351/PNC04, dated 25 April 2019, was refused by notice dated 27 June 2019.
 - The development proposed is change of use of agricultural building to 2 x 3 bed dwellings and 3 x 2 bed dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The appeal relates to an application that sought prior approval for both the change of use of the building and the associated operational development. The main issue is whether the proposal would be development permitted by Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and if so whether the prior approval should be granted for the relevant matters.

Reasons

The agricultural building

3. The agricultural building is steel framed with a concrete base and clad with corrugated asbestos cement sheets on its roof and on the majority of its external walls. The lower part of the external perimeter wall, from the concrete base up to around 1.7m, is formed of common brick with what appears to be an engineering brick base. The south west elevation contains a large 'cart shed' door, with an integrated pedestrian door. The north west elevation has what appears to be a further wooden pedestrian door.
4. Internally the building is one large space with a smaller area divided off at its north east corner, which appears to have been used as a wash room. There is evidence that the building has some form of water supply and foul drainage, together with an electrical supply. The floor appears to be solid concrete with what look like covered over inspection pits near the north east side. It is lit by roof lights made from a transparent, corrugated, material similar in profile to

the asbestos cement sheets. Inside the cladding also stops at the top of the surrounding brick wall. The buildings' steel frame is evident internally as are the cross braces.

5. Externally there is a concrete hardstanding between the building and the road. In this area there is evidence of below ground fuel tanks and a fuel pump at ground level. The rest of the land surrounding the building appears to be grassed. It stands on elevated ground between the River Nene (old course) to the south east and agricultural land to the north east. Outside the site to the north west lies another building.

Works proposed

6. It is proposed to convert the building to 5 dwellings (2, 3 bed and 3, 2 bed). To achieve this, it is intended to remove and replace all the existing cladding from the walls and roof and demolish part of the 1.7m high, exterior wall, to create openings for doors and windows at ground floor level. Additionally, a first floor would be added (described as a mezzanine by the council) which would be supported off the concrete base. New external cladding would be attached to the existing steel frame and openings for doors and windows would be created in the cladding. This would almost completely cover the existing 1.7m high external brick wall, where this is retained.

Application of Class Q (a) and (b)

7. Schedule 2 Part 3 Class Q (a) and (b) permit both the change of use of a building and any land within its curtilage from use as an agricultural building to a dwelling house (a) and allows building operations reasonably necessary to convert the building to a dwelling house to take place (b) without the need for express planning permission. This permitted development right is subject to a condition that before the beginning of the development, the developer must apply to the local planning authority, as to whether prior approval of the authority will be required for certain aspects of the development: including, amongst other things, transport or highways impact, noise, design or external appearance.
8. The Government's Planning Policy Guidance (PPG) states that the permitted development right assumes that the agricultural building is capable of functioning as a dwelling. The PPG also 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 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 permitted development rights.
9. The building requires the replacement of its roof and the replacement of the majority of its walls in order for it to function as a dwelling. The floor, steel frame and parts of the 1.7m high perimeter wall would remain. A substantial proportion of the building would have to be replaced in order for it to function as a dwelling. I have regard to the appellants view that the concrete floor and steel frame are structurally capable of supporting the new cladding. However, the skeletal steel frame, the concrete floor and part of the 1.7m high external wall alone do not allow the building to function as a dwelling house: being the starting point assumed by the permitted development rights as set out in the PPG.

10. In this respect I consider, as a matter of fact and degree, that the building works required go well beyond what is reasonably necessary to convert the building to a dwelling house. Therefore, the appeal fails as the proposed development is outside the relevant class i.e. not a conversion of an existing building to a dwelling house, but a rebuild.
11. On the second reason for refusal concerning the development resulting in the external dimensions of the building extending beyond the external dimension of the existing building at any given point. The appellant has asserted that the building operations are wholly contained within the envelope of the original building.
12. It is clear to me that the existing cladding, when viewed externally, sits outside the 1.7m high external brick wall. However, externally the existing cladding appears only to cover a very small proportion of the external wall and ends around 19 brick courses above the concrete base. Drawing number BAN.18.2: 2.2: C (Jun 2018) shows the new cladding extending to within 2 brick courses of the concrete base. This would virtually cover all of the existing brick perimeter wall. In this respect I find that the development would result in the external dimensions of the building extending beyond the existing external dimensions of the building, at a point between where the existing cladding ends, to approximately two brick courses above the concrete base around the entire building. So even had I concluded that the existing building was capable of functioning as a dwelling, the proposal would fail to comply with the Class Q1.(h) limitation, and the appeal could not therefore succeed.
13. In conclusion I find that the appeal should be dismissed for both reasons: that the proposed rebuilding works go beyond what is reasonably necessary to convert the agricultural building into a dwelling house and therefore the proposal is outside the relevant class as it is a new/rebuild; that the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at a point between the end of the existing cladding and the concrete base around the entire building.

Other Matters

14. The appellant makes reference to a prior approval application regarding the same agricultural building that was refused by the council on highway grounds alone in 2015. Whilst I can understand why this might raise an expectation on the part of the appellant that this application should be approved as the highway issue has been resolved. I have determined this appeal on the basis of the current guidance and relevant case law.

Conclusion

15. Having regard to all other matters before me I therefore dismiss the appeal.

Peter Mark Sturgess

Inspector