
Appeal Decision

Site visit made on 3 December 2019

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2020

Appeal Ref: APP/F2415/W/19/3238014

Ourland Farm, Stemborough Lane, Leire, Leicestershire LE17 5EY

- 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 (as amended).
 - The appeal is made by Mr & Mrs Gregory-Allen against the decision of Harborough District Council.
 - The application Ref 19/00801/PDN, dated 15 May 2019, was refused by notice dated 4 July 2019.
 - The development proposed is prior approval for a proposed change of use of a agricultural building to a dwellinghouse (C3) and for associated operational development (Class Q(a) and (b)) (revised scheme of 18/01246/PDN)
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Decision

1. The appeal is dismissed.

Procedure Matter

2. The description of development is taken from the Council's decision notice as the appellant has indicated in part E of the appeal form this is correct.

Background and Main Issue

3. Class Q (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (the GPDO) permits the 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. Class Q (b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above.
4. The appeal site is an agricultural building constructed of a modern steel frame with metal cladding walls and profile roof sheeting. The proposal is for the conversion of two fifths of the building to residential accommodation with the rest remaining in agriculture.
5. The red line of the site is shown on the application plans and includes the section of the building proposed for conversion with domestic curtilage to the side and front of the proposed dwelling. This has been revised from previous submissions to address the concerns raised in a previous appeal decision¹. The

¹ APP/F2415/W/18/3214666

Council are satisfied that it would meet the criteria as set in Class Q (a) of the GPDO. I have no reason to disagree with the Council's findings on this matter.

6. The Council's main contention is that the building operations required would go beyond what could be considered reasonably necessary to 'convert' the building under Class Q (b) and therefore the proposal would not be 'permitted development'. They also suggest that, if the building were capable of conversion, the building would be at risk of flooding.
7. Therefore, the main issues are whether the proposal would comprise a conversion that would constitute permitted development, having regard to Class Q of Part 3 of Schedule 2 of the GPDO and, if the building is capable of conversion, the effect of the development on flood risk.

Reasons

8. I have had regard to the High Court Case² and the Planning Practice Guidance³ (PPG). The PPG provides further clarification on what works are permitted under Class Q and the right permits 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. It 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. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be able to benefit from the permitted development right.
9. The permitted development right described in Part Q of the GPDO relates to the conversion of a building. For that right to apply the building must first be capable of functioning as a dwelling.
10. The part of the appeal building which would remain as part of the proposed development is the steel frame and its foundations. The existing building is supported by the steel frame and has metal cladding on each of the elevations, of which some are in two parts, with timber beams attached internally along the elevations to the steel frame. The roof has corrugated fibre-cement sheeting. The appellants structural inspection⁴ (SI), albeit brief and without detailed specifications of the structural engineer's design, concludes that there is no evidence of structural defects and the proposed re-cladding would not affect the structural integrity of the building.
11. The 'Schedule of Works' lists the requirement of works to facilitate the conversion. This includes a new ground floor concrete slab, new insulated cladding, new walls, new drainage, new mezzanine floor, new roof sheets / covering.
12. Furthermore, the plans submitted with the application indicate that the front and side elevations would have a number of openings which would inevitably mean the cladding would have to be removed. I have also noted that the metal sheet cladding on the side elevations do not extend in part fully to the floor or the eaves and would require replacement.

² Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

³ Paragraph: 105 Reference ID: 13-105-20180615 Revision date: 15 06 2018

⁴ Structural Inspection (DWS Diamond Wood & Shaw Limited) 17-14235-B January 2018

13. It is clear that all the external cladding on the building (walls and roof) would be removed and replaced with new composite cladding and new roofing sheets with insulation below, albeit attached to the existing metal frame. For these reasons, I consider that the works would be so extensive that they would be more than what can be considered a conversion and, consequently, the works do not comply with Class Q.
14. The PPG advises that internal works are not generally development and for the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow a floor, the insertion of a mezzanine, or internal walls, which are not prohibited by Class Q. I note the appellants comments in regard to there being hardcore beneath the existing compacted earth floor, but this is not identified in the SI and was only evident in a very small section of the building. A ground floor concrete slab would be required, and this would be needed to support structurally the new internal walls. The amount of internal works required adds weight to my conclusion that the works required would be more than can be considered a conversion
15. The Schedule of Works refers to new roofing sheets with insulation below and the Council suggest this could result in some roof overhang around the building. Consequently, that may mean that the external dimensions of the resulting building would extend beyond that of the existing building. If so, that would be an additional reason why the proposed development would not fall within the limitations of Class Q.
16. For the reasons set out above, I conclude that the proposal would go beyond the building operations reasonably necessary to convert the building to a dwellinghouse, contrary to Class Q (b) and paragraph Q.1(i). Consequently, the appeal should fail. Given my findings, it is not necessary to address the other concerns that have been raised by neighbour responses or those by the Council in relation to the prior approval matters under para Q.2 of the GPDO which include flooding.
17. I understand other developments have been granted Prior Approval by the Council under Class Q in the area. I have been provided with limited details of them, although there may be some similarities. The appellants suggest that the Council have been inconsistent and made inaccurate assertions, but these do not affect the precise circumstances of the appeal scheme. I have also had regard to an appeal decision which has been brought to my attention⁵, but the individual circumstances of that case differ from the proposals before me, including that the walls were in part blockwork and there was a concrete floor. In any event, the appeal needs to be determined on its individual merits on the basis of the evidence before me.

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR

⁵ APP/B3438/W/18/3202031