



Appeal Decision

Site visit made on 28 January 2020

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2020

Appeal Ref: APP/Y2810/W/19/3241934

Barns off A428, Northampton Road, West Haddon, Northamptonshire NN6 7AS

- 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 David Smith against the decision of Daventry District Council.
 - The application Ref PD/2018/0076, dated 3 December 2018, was refused by notice dated 25 June 2019.
 - The development proposed is prior approval notification of change of use of two agricultural buildings to 2 no dwellinghouses under Class Q(b), Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The date of the application was 3 December 2018. There were issues relating to missing information that made the application invalid. This was provided and the application was validated on 8 April 2019.
3. In summary, Article 7 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO) provides that where, in relation to development permitted by any Class in Schedule 2, Part 3 which is subject to prior approval, and an application has been made to the LPA for such approval or a determination as to whether such approval is required, the decision must be made by the local planning authority within 56 days, unless a longer period has been agreed by the applicant. The appellant has confirmed that an extension was agreed within the 56 day limitation. I am satisfied that the decision was issued within the agreed timescale.
4. Prior approval for agricultural to residential conversion under Class Q(a) only has previously been granted for the two buildings in question. Where relevant, I have had regard to this in the determination of the appeal.

Main Issue

5. The main issue is whether the proposal is permitted development under Schedule 2, Part 3, Class Q(b) of the General Permitted Development Order (GPDO) 2015, having particular regard to whether the building operations

proposed are reasonably necessary to convert the building to a use falling within Class C3.

Reasons

6. The appeal relates to two barns in an open field served by an unmade cart track. Both are steel portal framed agricultural buildings. Barn 1 is largely open on all sides. The floor is bare earth and the steel uprights support a profiled fibre roof. The steel frames appear to be set in concrete. Barn 2 has a full concrete floor. Again, the steel frames support a profiled fibre roof. The barn is open on two sides, with the rear and one side having been infilled with corrugated sheeting. These do not appear to be structural elements of the building, with the sheets being attached to vertical timbers.
7. Class Q(b) of the GPDO refers to building operations that are 'reasonably necessary to convert the building' being permitted development. As set out in paragraph Q.1(i), this can include the installation and replacement of walls, windows, doors, roofs, the installation of services and for partial demolition. The National Planning Practice Guidance (PPG)¹ makes it clear 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. It goes on to state that 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 GPDO does not define what is meant by 'reasonably necessary'. However, the Council has referred me to the *Hibbitt*² court judgement. This provides important guidance as to how these requirements should be interpreted. The building does not have to be capable of functioning as a dwelling in its existing state in order to benefit from permitted development rights. Class Q allows for works that could be extensive in nature. However, the Courts have held that in order for the permitted development right to apply, the development proposed must fall within the concept of a 'conversion' as opposed to a 'rebuild' or 'fresh build'. Whether or not the proposed works go beyond the scope of conversion is a matter of fact and degree and requires an element of judgement.
9. I note that the structural assessment submitted with the application was not able to verify the nature of the foundations of either barn. Moreover, the report suggests that there may be opportunities to introduce localised cross bracing on both buildings and additional roof bracing in Barn 2. The report is not clear as to why such supports would be needed, other than that they would be normal for a steel portal framed building. There is also no indication in the report, or other evidence, whether additional foundations would be required to accommodate the new walls. With particular regard to Barn 1, there is also no specific reference to the structural implications, if any, of inserting a new first floor into the building. Notwithstanding these omissions, the report concludes that based on the age of the barns, the lack of any movement and their general condition, both would be structurally strong enough to take the likely loading.

¹ Reference ID: 13-105-20180615

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

10. While I have concerns over some aspects of the report, the *Hibbett* judgement established that structural integrity is not necessarily a decisive factor. The Inspector in that case concluded the remaining framework would be structurally sound enough to accept the proposed works, but that this was not determinative in terms of whether the works involved were within the scope of Class Q. The judge accepted this and concluded that the development in that case was, in all practical terms, starting afresh with only a modest amount of help from the original structure.
11. The works here would involve the construction of new walls on all elevations of both buildings as well as the installation of new roofs, doors and windows. There would also be a need for internal dividing walls and the formation of a new floor and first floor level in Barn 1. Substantial works can fall under the scope of building operations within Class Q. However, in the proposal before me, the structures would only be capable of functioning as dwellings following substantial replacement and construction of a significant number of new elements. All that would exist of the original structures are the steel frames. In my view, when comparing what would remain of the original buildings with what would be constructed, the works carried out would, as a matter of fact and degree, be more than a conversion. As such, I consider the nature and extent of the works to be such that the development would amount to a 'fresh build' as set out in *Hibbett*.
12. Taking all relevant factors into account, it is my view that the extent of the works proposed for both barns are excessive and beyond the scope of being reasonably necessary for the conversion of the buildings to function as dwellings. As such, the works would fall outside the scope permitted under Class Q(b) and would not constitute permitted development.

Other Matters

13. The appellant has drawn my attention to examples of conversions that have been allowed by the Council under the same rights. However, I have not been provided with full details of these and thus cannot conclude with any certainty that they are comparable to this proposal. I have considered the appeal on its own merits based on the evidence before me and my own observations of the site.
14. The Council assessed the proposal against the prior approval criteria set out in Class Q.2(1) and raised concerns over the external appearance of the development. However, as I have already found that the development would not meet the requirements of Class Q(b), it is not permitted development and thus it is not necessary to consider these matters further. The same principle applies to matters raised under Class Q.1 and the concerns raised by the Highway Authority.

Conclusions

15. For the reasons outlined above, the development does not satisfy the limitations in Schedule 2, Part 3, Class Q(b) of the GPDO. As such, I consider that the appeal should be dismissed.

S J Lee

INSPECTOR