



Appeal Decision

Site visit made on 17 February 2020

by Adrian Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2020

Appeal Ref: APP/F2415/W/19/3241580

Former Grain Dryer Buildings and Farmyard, Walton Holt Farm, Bosworth Road, Walton LE17 6NF

- 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 RA Price (Bosworth Properties Ltd) against the decision of Harborough District Council.
 - The application Ref 19/01505/PDN, dated 18 September 2019, was refused by notice dated 8 November 2019.
 - The development proposed is described as conversion of existing farm buildings into 3 dwellings. Materials to include brick and metal sheet roofing or plain tiles, painted joinery. The buildings are set back from Bosworth Road within an existing access off that highway.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) allows for 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) and building operations reasonably necessary to convert the building into such. This is subject to criteria set out in paragraph Q.1 and to conditions in paragraph Q.2.
3. The proposal seeks both a change of use and building operations. The decision notice sets out the Council's opinion that the extent of the works required to convert the buildings would fail to comply with the requirements of Class Q(b) and paragraph Q.1(i). It is also suggested that the works would exceed the external dimensions of the building contrary to criterion Q.1(h). As such, the Council contends that the proposal would not be permitted development.

Main Issue

4. In light of the above, the main issue is whether the development would be permitted development for the purposes of the GPDO, in particular with respect to the limitations listed in paragraph Q.1 of Class Q, having regard to building operations.

Reasons

5. The appeal concerns two former agricultural buildings. Building 1 is constructed in brick with a pitched corrugated cement sheet roof. Building 2 is a geometric shaped building with concrete beams and columns, brick infill panels and flat concrete roofs. Both buildings have evidently been disused for some time and this is reflected in their condition. As alluded to above, there is fundamental disagreement between the parties over whether the extent of building operations would fall within the limitations of the Class Q permitted development right.
6. The Planning Practice Guidance¹ (the Guidance) explains that the right, under Class Q, “assumes that the agricultural building is capable of functioning as a dwelling. 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. 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. 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 to residential use that the building would be considered to have the permitted development right”.
7. I have also had regard to the *Hibbitt*² case referred to me by the parties, which held that the building must be capable of conversion to residential use without new structural elements, and that the existing building should be sufficiently strong enough to bear the loading from the external works.
8. The appellant’s Structural Report concludes that both buildings are fit for conversion to residential accommodation. However, I note that this is on the basis of numerous recommended works being carried out, including what in my judgement amounts to structural works. It is also equivocal in some of its language such as ‘may be required’ and depending on further tests.
9. In the case of Building 1 it recommends new structural timber purlins and potential doubling up of supporting beams to be able to support the new roof materials. This is clearly necessary given large sections of the roof on the main part of the building are missing and some remaining beams and purlins are severely damaged. In respect of the walls, it suggests that cracking may be due to settlement and that underpinning and new foundations may be required along with rebuilding of the external walls. In addition, it recommends that the external walls should be propped with reinforced brick piers built off new foundations and tied into the existing walls. The structural steel columns, which are currently bolted to the concrete floor, would need proper foundations. The concrete floor may also need replacement or major repair works.
10. For Building 2, the concrete beams and columns, whilst of substantial construction, have spalled in many places exposing the inner reinforcement and causing exposed sections to become corroded. The recommendations are

¹ Paragraph: 105 Reference ID: 13-105-20180615

² *Hibbitt v SSCLG* [2016] EWHC 2853

- to break back any loose or spalled concrete and spray new concrete incorporating additional reinforcement 'where appropriate'. As the Report is not conclusive on whether the existing concrete is of insufficient durability, there is no certainty that these works would not be very extensive. The columns may also require underpinning and the floor may need replacement or major repair.
11. In both buildings the majority of the window and door openings would be new openings to rooms which would not otherwise have any. The drawings also indicate that ground levels would be altered with new building works, particularly at the rear of Building 1 to facilitate formation of new window and door openings.
 12. The appellant states that such works are not unexpected in the conversion of rural buildings and are routinely carried out as part of conversions allowed under planning permission. Irrespective, this is not a planning application and as set out above, the limitations of Class Q assume the building is already suitable for conversion without significant works and structural elements, so the two processes are different.
 13. The appellant also states that not all recommendations of the Structural Report would be carried out, and where any works fall beyond the scope of Class Q, alternative solutions would be found. This includes the recommendations for external reinforcement piers to support the walls. However, such an approach would defeat the objective of a structural report and leaves considerable uncertainty over the proposed works. Moreover, there is no evidence before me of the 'alternative solutions' and no guarantee that they would comply with Class Q limitations. I am required to determine the appeal on the basis of the evidence that is before me.
 14. Whilst the buildings may not be as skeletal in form as that considered in *Hibbitt*, they are evidently in a poor condition. From the evidence before me and my own observations, the cumulative extent of the works proposed to facilitate a residential use of the buildings would be extensive. The need for new structural elements to support the walls and roofs is indication that the existing buildings are not sufficiently strong enough to bear the proposed conversion works as they stand. It is also significant that the proposal relies on new windows and doors throughout, including lowering of ground levels to the rear of Building 1 to enable the new openings to be formed, which adds to my impression that the existing buildings are not already suitable for conversion to residential use. For these reasons, I consider that the totality of the proposed works do not fall within the limitations of Class Q permitted development.
 15. Furthermore, in the absence of alternatives before me, the external supporting piers are likely to mean that the external dimensions of the resulting building would extend beyond that of the existing building. This would be an additional reason why the proposal does not fall within the limitations of Class Q permitted development.
 16. Taking all the above into account, I conclude that the proposal would not be permitted development under Schedule 2, Part 3, Class Q of the GPDO, having regard to the requirements of Paragraphs Q(b) and Q.1.(i and h) in relation to building operations. Accordingly, there is no need for me to go on to consider the prior approval matters under Q.2 of the GPDO.

Other Matters

17. In reasoning my conclusion, I have had regard to the appeal decisions brought to my attention³. I have limited details of those schemes, but both cases appear to relate to steel portal frame buildings in a good state of repair and with no requirement for structural support, which differs markedly from the circumstances and proposals before me. In addition, the consideration in those cases in relation to whether replacement timber cladding would extend beyond the existing corrugated sheeting is not comparable to the issue of the external supporting piers in this appeal. Accordingly, nothing I have read leads me to a different conclusion, and in any event, this appeal needs to be determined on its individual merits on the basis of the evidence before me, which I have done.

Conclusion

18. 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.
19. The appeal is therefore dismissed.

Adrian Caines

INSPECTOR

³ Appeal refs: APP/A2470/W/19/3221197 and APP/A2470/W/19/3221217