
Appeal Decision

Site visit made on 10 February 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2020.

Appeal Ref: APP/W3520/W/19/3239415

Hedgerows, Hoxne Road, Denham, Suffolk IP21 5DN

- 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 Mrs P. Sowter against the decision of Mid Suffolk District Council.
 - The application Ref DC/19/00883, dated 19 February 2019, was refused by notice dated 17 April 2019.
 - The development proposed is change of use of 2 No agricultural buildings to dwelling houses (Class C3).
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class Q (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of two agricultural buildings to dwelling houses, in accordance with the terms of the application, Ref: DC/19/00883, dated 19 February 2019, subject to the commencement condition in Q.2(3) of Class Q and the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the unnumbered location and site plan drawing submitted to the local planning authority on the 21st February 2019.

Main Issue

2. The main issue is whether the proposed development is permitted development under Schedule 2, Part 3, Class Q(a) of the GPDO

Reasons

3. The application for prior approval has been submitted under Class Q(a) of the GPDO¹. Class Q(a) is narrow in scope and only permits the change of use from agricultural buildings to dwellings. It does not permit building operations.
4. Paragraph Q.1 of Class Q sets out the circumstances when development is not permitted by Class Q. The Council is satisfied that the circumstances described in Paragraphs Q.1 (a), (b), (c), (d), (e), (f), (h), (j), (k), (l) and (m) do not apply to the buildings and land in question. The evidence before me does not indicate the Council's findings are incorrect. As such, I have no reason to disagree. Paragraphs Q.1 (g) and (i) cannot be relevant in this instance as

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

- building works are not proposed and therefore the considerations under these paragraphs are only triggered in applications made under Class Q(b).
5. The Council has considered the proposal against those matters listed (a) to (e) in Condition Q.2 (1) of Class Q. It found the transport and highway impacts to be acceptable, a conclusion informed by the Local Highway Authority. Concerns have not been identified in respect of noise and the risk from contamination and flooding. The Council also concluded that the location and siting of the buildings are not impractical or undesirable for a residential change of use. Again, from the evidence before me, including the Council Officer's assessment in their delegated report, I share these conclusions. Correctly, the Council did not consider the design or external appearance of the buildings because building works are not proposed.
 6. Given the foregoing, the proposal would seem to be permitted development within the narrow confines of Class Q(a) and would be acceptable when considered against those matters listed (a) to (e) in Condition Q.2 (1). Consequently, there is no justifiable basis to withhold prior approval in this instance. The appellant has directed me to another appeal decision² where this finding was reached. The Inspector concluded that the GPDO does not state that a Class Q(a) only application cannot be made where building operations are clearly intended or required. I have no reason to disagree with this proposition and like application should be considered in a like manner.
 7. The Council nevertheless refused the application for prior approval, being of the view that the buildings in question are probably incapable of conversion without rebuilding. The appeal buildings appear to be insubstantial, being rudimentary and partially open sided. They are not currently habitable and would likely require significant works to become so. As such, building works will be necessary at some point if the buildings are to function as dwellings. The appellant has indicated an intention to make a planning application in this regard in the future.
 8. However, the existing buildings would not become dwellings until they are occupied, but they are currently uninhabitable. As such, a change of use granted under Class Q(a) is incapable of being implemented in this instance. It is therefore likely that the planning application the appellant intends to submit would need to seek approval for both building works and a residential change of use. This would fall to be considered against development plan policies concerned with rural conversions. In the circumstances, it is highly unlikely a Class(a) prior approval incapable of being implemented would be a 'fall-back' position. Moreover, if significant works are subsequently required, as the Council suspects, and these amount to rebuilding, then Class Q(a) could not be engaged, as Class Q cannot apply to structures that require rebuilding to function as a dwelling.
 9. It therefore seems to me that the appellant would likely need to make a planning application to convert the buildings to dwellings or an application for prior approval under Class Q(b) of the GPDO. It is at this point that the Council could consider building works and ascertain whether they would be appropriate or amount to rebuilding. Accordingly, the Council has erred in considering building works at this point, because they cannot be advanced or considered under an application pursuant to Class Q(a) of the GPDO.

² APP/B3410/W/17/3170228

Conditions

10. in accordance with Condition Q.2(3) of the GPDO, the approval is subject to the condition that development must be completed within a period of 3 years from the date of this decision. Paragraph W(12) of the GPDO requires the development to be carried out in accordance with the approved details. I have listed these as a condition for the avoidance of doubt.
11. Section W (13) of the GPDO allows prior approval to be granted subject to conditions reasonably related to the subject matter of the prior approval. The Council has provided a suite of suggested conditions. For the reasons already given above, it is unnecessary to impose a condition requiring details of the building operations necessary to convert the building. The development is served off an existing access and therefore it is unclear why this needs to be upgraded in order to accord with Local Highway Authority Drawing No. DM01. Thus, the Council have not demonstrated why a condition along these lines is necessary.
12. Similarly, it is also unclear why it is necessary to remove permitted development rights to erect frontage enclosure from an existing access that is currently in use. In any event, the condition as suggested would not prevent planting. The condition would therefore be ineffective and unnecessary.
13. Vehicles and bins would need to be accommodated within the curtilages of the dwelling, which are identified on the submitted drawings. It is therefore unclear why further details of parking, vehicle manoeuvring, and bin storage are necessary. Bins would be presented at the roadside. Accordingly, I have not imposed conditions in this regard.

Conclusion

14. In conclusion, for the reasons given above the appeal is allowed.

Graham Chamberlain
INSPECTOR