



Appeal Decision

Site visit made on 7 January 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2020

Appeal Ref: APP/Y2810/W/19/3239815

**Agricultural Barn, New Lodge Farm, Kettering Road, Walgrave,
Northamptonshire NN6 9PJ**

- 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.
 - The appeal is made by Mr Lawson (RXCA Properties LTD) against the decision of Daventry District Council.
 - The application Ref PD/2019/0036, dated 23 April 2019, was refused by notice dated 1 August 2019.
 - The development proposed is prior approval for change of use from agricultural store to single storey dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of the development from the appeal form, as this is more accurate and succinct.

Main Issue

3. The main issue is whether the proposed change of use constitutes permitted development pursuant to Class Q of Part 3 of Schedule 2 to the General Permitted Development Order (GPDO), having regard to the extent of the works proposed.

Reasons

4. Class Q of Schedule 2, Part 3 of the GPDO allows development involving a 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 (dwellinghouse) (Class Q(a) development). In addition, Class Q(b) permits building operations that are reasonably necessary to convert the dwelling to a Class C3 use (Class Q(b) development). Paragraph Q1 identifies the specific circumstances under which development is not permitted and Paragraph Q2 lists the conditions applying to Q(a) and Q(b) development.
5. The conditions in paragraph Q.2 set out where development proposed is development under Class Q(a) only, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the items referred to in sub-

paragraphs Q.2 (1) (a)-(e). Paragraph W(3) of the GPDO states that an application for prior approval may be refused where it does not comply with any conditions or limitations applicable to Class Q or where there is insufficient information to establish such compliance. In considering whether the proposal meets the requirements set out in Paragraph Q1 for the development to be permitted under Class Q(a) consideration of the criteria (a)-(m) in paragraph Q.1 is required.

6. The Planning Practice Guidance advises that the Permitted Development right to change the use of an agricultural building to residential, assumes that the agricultural building is capable of functioning as a dwelling. There is recognition that for the building to function as a dwelling some building operations that would affect the external appearance of the building, which otherwise would require planning permission, should be permitted.
7. However, it states that it is not the intention of the permitted development right to include the construction of new structural elements for the building. It is only where the existing building is structurally strong enough to take the loading that comes with the external works to provide for residential use that the building would be considered to have the permitted development right.
8. In making my assessment of the proposal I am also conscious of paragraph W of Schedule 2, Part 3 of the GPDO which states that 'the local planning authority may refuse an application where, in the opinion of the authority (a) the proposed development does not comply with, or (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question'.
9. The existing barn has a duo pitched steel frame structure and is open on the south and west elevations. The steel barn has 2 mono pitched roofs, one runs along the north elevation, with a steel frame and timber columns supporting the roof. The area with timber columns has a concrete ground bearing floor slab. In the eastern area, the barn has steel columns to support the mono the roof. The floor of this area is predominately earth, similar to the surrounding land. The principal use of the barn for storage would have significantly less loading than that likely to occur from a residential use.
10. The frame supports timber rails and rafters which support full-height corrugated sheet walls, with gaps between the floor and walls and corrugated roof. The proposed plans show the frame being retained with walls built around it. The proposal states that metal cladding would be replaced with new and the walls internally lined and insulated. It is not clear what the internal lining and insulation is likely to be or what the necessary foundations to support them would be. The northern section has brick walls in place, however, this only covers a relatively small area of the barn, with the rest utilising metal panels supported by steel supports.
11. The appellant has submitted a structural report¹ and letter in support of the proposal. It concludes that the main structural elements of the building represent substantial construction and can be retained as part of a residential development without demolition or reconstruction. It is suggested that new

¹ New Lodge Farm Walgrave: Visual Structural Report on Rear Barn - SEA Structural Engineers (2019)

elements would be provided to bring the building up to the latest Building Regulation Standards.

12. The report suggests that bare earth floors are not uncommon in old barns and existing floors have been replaced when converting barns into habitable dwellings. For this proposal, the appellant states that there is no rebuild of the main structural elements required, only isolated strengthening works to convert the barn into a habitable dwelling.
13. My attention is drawn to the judgment of *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016]. In the Hibbit case, the building had open sides therefore, the building subject to that case is not directly comparable to the appeal proposal. Nonetheless, it did set out that it is a matter of legitimate planning judgement as to where the line is drawn between conversion and a rebuild.
14. I note the appellant has suggested that the Council has drawn conclusions without providing its own survey on the structural stability of the building and has requested evidence to demonstrate Building Regulations compliance. However, it is for the applicant to demonstrate the evidence necessary to support the proposal, although building regulations is not a planning matter.
15. Whilst elements of the structure of the barn would be retained and would form a fundamental part of the proposed dwelling, the works involved to bring it to a habitable dwelling would likely require new walls with their own foundations, which would entail new structural elements.
16. On the basis of the nature of the building I saw on my site visit and what is shown on the submitted drawings, I am not satisfied that the existing building would be capable of functioning as a dwelling without extensive works being undertaken. The development required to create a dwelling would not amount to a conversion or change of use of an existing building, but would in effect be the erection of a new dwelling. This would not constitute permitted development under the provisions of Class Q.
17. The appellant suggests the site can be appropriately accessed and is not within a flood risk zone and that there are no known contamination risks on site. They also state that the proposal would not cause harm to the living conditions of the occupants of neighbouring properties. It is however not necessary for me to reach a conclusion on this and the merit of other matters relating to prior approval, as I have found that the proposal would not be permitted development.
18. The appellant also states that the barns adjacent to the site have been subject to a number of previous applications and all have permission to be converted to residential properties. However, I have few details before me of these cases and in any event, I am required to assess this proposal on its own merits, and this is what I have done.

Conclusion

19. For the reasons set out above, I conclude that the appeal should be dismissed.

D Peppitt

INSPECTOR