



Appeal Decision

Site visit made on 18 February 2020

by Paul Singleton BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2020

Appeal Ref: APP/P3040/W/19/3241917

Agricultural Building at Stanton Farm, Browns Lane, Stanton-On-The Wolds, Nottinghamshire NG12 5BL

- 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 AD McClaren and Son against the decision of Rushcliffe Borough Council.
 - The application Ref 19/01698/PAQ, dated 12 July 2019, was refused by notice dated 10 September 2019.
 - The development proposed is conversion of portal framed building for 2 dwelling houses with private gardens.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q (b) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO) (as amended) for the conversion of portal framed building for 2 dwellinghouses with private gardens at Agricultural Building at Stanton Farm, Browns Lane, Stanton-On-The Wolds, Nottinghamshire NG12 5BL in accordance with the details submitted with the application and subject to the following conditions:
 - 1) The development shall begin not later than three years from the date of this decision.
 - 2) The development shall be carried out in accordance with the following approved drawings: Site Location Plan and Drawing Numbers SF04, SF05 and SF06 all dated June 2019.
 - 3) No part of the building shall be occupied as a dwelling until a scheme of improvements to the site access has been completed in accordance with details which have been submitted to and approved in writing by the local planning authority. The scheme shall include full details of proposals for the removal or relocation of the site access gates at least 5.5m from the highway boundary; the cutting back of the boundary hedging to improve visibility at the access junction; the resurfacing of the internal access road for a distance of at least 5.5m from the highway boundary; and the provision of means of drainage to the access to prevent the unregulated discharge of surface water from the access onto the highway. The approved improvement works shall, thereafter, be retained and maintained for the life of the proposed development.

Application for costs

2. An application for costs was made by AD McClaren and Son against the Council. This is the subject of a separate Decision.

Procedural Matters

3. I have adopted the description of development as set out in the Council's Decision Notice as this provides a more accurate description of the appeal proposal. The application proposes both a change of use and building operations to convert the building into 2 dwellinghouses under Class Q(b).

Main Issues

4. The main issues are:
 - a) Whether the proposed development complies with the conditions, limitations and restrictions applicable to development permitted under Schedule 2, Part 3, Class Q of the GPDO;
 - b) Whether prior approval is required as to the matters set out in paragraphs Q.2(1)(a) to (f) of the GPDO .

Reasons

Whether development permitted under Class Q

5. Class Q allows a change of use of a building and land within its curtilage from an agricultural building to a use falling within Class 3 (dwellinghouse) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) and for building operations reasonably necessary to convert the building to such a use. Paragraph Q.1 sets out the circumstances in which development is not permitted by Class Q and paragraph Q.2 sets out conditions which must be met for the development to be carried out under the permitted development rights.
6. I saw on my site visit that the building is used for the storage of agricultural vehicles and equipment and the Council accepts that, on the balance of probability, the building was in agricultural use on or before 20 March 2013. No extension to the building is proposed and there is no dispute between the parties that the internal floorspace and size of the proposed dwellings comply with the thresholds set out in paragraph Q.1.
7. In relation to building works, sub-paragraph (i) of Q.1 states that development is not permitted if it "*would consist of building operations other than-*
 - (i) the installation or replacement of-*
 - (aa) windows, doors, roofs or exterior walls, or*
 - (bb) water, drainage, electricity, gas or other services**to the extent reasonably necessary for the building to function as a dwellinghouse; and*

(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i)."

8. The appeal building is constructed with a galvanised steel, portal frame with timber purlins and rails and roof bracing to the rear set of rafters. The roof and sides are clad to ground level in plastisol coated steel cladding with 6 roof lights in the pitched roof. My observations confirm the findings of the appellant's Structural Assessment report that all structural elements, cladding, gutters and rainwater pipes are in good condition. There is a concrete slab to part of the floor with the remainder comprising compacted stone laid directly on the earth.
9. The appellant's statement confirms, as indicated on the appeal plans, that the existing steel cladding to the external walls and roof of the building would be retained. The only external works proposed to the building comprise a modest enlargement of the existing opening in the north elevation to accommodate new access doors and windows, the creation of new openings for doors and windows in the other elevations, and the replacement of the 6 existing roof lights with 4 smaller ones.
10. Internally a new concrete floor would be laid, insulation would be provided to the walls and roof and a new mezzanine floor would be constructed to create two levels of living accommodation. Water, drainage and other services would be installed to enable the dwellings to be provided with kitchens, bathrooms and other living accommodation. New garden areas and parking spaces would be created for each of the dwellings within the building curtilage included within the site boundary.
11. Having regard to the proposed subdivision of the building to provide two separate dwellings I consider that the number of new openings has been kept to a minimum consistent with the reasonable provision of access, daylight and amenity for the future occupiers of the dwellings. No concerns have been raised by the Council with regard to the installation of water, electricity or other services. In my judgement the scope of these works can properly be regarded as being within the extent 'reasonably necessary' for the building to function as two dwellinghouses as proposed. These works are, therefore, permitted under the provisions of paragraph Q.1(i)(i). The appellant has confirmed that no demolition or rebuilding is required to facilitate either these works or other aspects of the conversion proposals.
12. Further guidance on building works is provided in the Government's Planning Practice Guidance. Paragraph 105¹ advises that the right under Class Q permits building operations that "*may include works that affect the external appearance of the building and would otherwise require planning permission*". It also 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 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"; and that:

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

"Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q."

13. Although it identified some works required to comply with building regulations, the Structural Assessment concluded that the building is structurally suitable for conversion to a dwelling. There appear to have been no alterations to the building since that assessment was undertaken and nothing that I observed on my site visit would lead me to a different conclusion.
14. In its statement the Council sets out its understanding that the proposed works include the construction of new foundations to walls although no such works are indicated on the appeal drawings. The appellant's statement confirms that no new foundations are proposed. It also advises that the reference, within the Structural Assessment, to such works being necessary to comply with building regulations relate to the scheme put forward in the previous application (19/00783/PAQ) which was refused by the Council in May 2019. The date of the Structural Assessment report (March 2019) is consistent with it having been prepared in support of that earlier application.
15. As confirmed at paragraph 2.6 of the Council's statement, that earlier proposal included the partial replacement of the external walls with rendered brickwork. New foundations would most likely have been required to support the additional weight of those new masonry walls. No such works are proposed in the appeal scheme as the existing steel cladding would be retained to the full height of the external elevations. That cladding is supported by the existing steel portal frame. Although internal insulation would be needed to meet building regulations requirements and new internal linings may be needed for decorative reasons, I see no reason why new foundations would be required to the external walls.
16. A new concrete floor slab is proposed but this would be laid inside the building and would not affect the external walls. Both this, and the construction of a new mezzanine floor to create two levels of living accommodation, would comprise internal works which do not generally constitute development and which are not prohibited by Class Q.
17. I note the Council's reference to the judgment in the Hibbitt case² and acknowledge the Court's ruling that there is a discrete threshold to be applied in considering whether a proposal constitutes a conversion rather than the rebuilding of the subject building. The extent of the works proposed in the appeal scheme falls considerably short of that threshold. Accordingly, I find that the proposal does constitute a conversion scheme that fits within the scope of Class Q and is not excluded from the right permitted under that class by any of the provisions in paragraph Q.1.

² Hibbitt v SSCLG [2016] EWHC 2853

Whether prior approval is required

18. Paragraph Q.2(1) specifies that, where the proposal is development under Class Q(a) or (b), development is permitted subject to the condition that the developer must apply for determination as to whether or not prior approval will be required in relation to a number of specific matters. Notwithstanding that the application was refused on the grounds that the proposal does not comprise development permitted under Class Q, the Council has set out its views as to whether or not it would have been likely to require prior approval in respect of each of these matters. I have had regard to those submissions.
19. The Council has not raised concerns with regard to flood or contamination risks on the site or potential noise impacts of the development. These matters are also covered in the appellant's evidence and I have seen nothing in the evidence or on my site visit to suggest that such risks might possibly arise. Neither has the Council suggested that the location or siting of the building makes it otherwise or impractical for the proposed change of use to occur. Again, I saw nothing on my site visit which would suggest any grounds for concern in this regard.
20. The residential curtilage provides adequate room for dedicated car parking spaces for each of the proposed dwellings. Access from Browns Lane to those parking spaces would be taken via areas of hardstanding to the front and side of the building and there is more than sufficient room within these areas for vehicles to turn so that they can access and leave the site in forward gear. The granting of access rights to the future occupiers of the proposed dwellings is a private matter between the site owner and those occupiers. There is no general requirement that the land over which that access is taken should be within the residential curtilage of the dwellings. Indeed, as this access would be shared with the farmer's access to the fields to the side and rear of the building, it would not be appropriate to include it within the area subject to the proposed change to residential use.
21. The safety of the access has been considered by the Highway Authority in their consultation response on the application. They accept that it would be appropriate to retain the current 7.2 metre (m) width given that the access would be used by agricultural as well as domestic vehicles. The Highway Authority has, however, recommended some improvements in the interests of highway safety. As acknowledged in the consultation response these would require only minor changes to the access. I consider that these could be secured by means of conditions and are not matters requiring prior approval as suggested by the Council.

Conditions

22. In accordance with the GPDO, development must be carried out within three years of the date of this decision and in compliance with the approved plans. I have attached conditions in respect of these matters. I do not consider that any additional conditions are necessary to ensure a satisfactory standard of design and appearance.
23. In line with the Highway Authority's recommendations, and in the interests of highway safety, I have attached a condition which requires the carrying out, in accordance with previously approved details, of a scheme of improvements to

the site access. The appellant has confirmed that these works relate to land that is under its control. I am, therefore, satisfied that these can be secured by means of conditions and that they are necessary in the interests of highway safety.

Conclusions

24. For the reasons set out above I conclude that the appeal should be allowed in the terms set out at the start of this decision.

Paul Singleton

INSPECTOR