



Appeal Decision

Site visit made on 27 February 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2020

Appeal Ref: APP/A0665/W/19/3243071

New Hey Lane, Willaston, Neston CH64 2UU

- The appeal is made under section 78 of the Town and Country Planning Act 1990
 - against a grant approval required under Schedule 2, Part 3, Paragraph Q.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr C W Moore against the decision of Cheshire West & Chester Council.
 - The application Ref 19/03904/PDQ, dated 22 October 2019, was refused by notice dated 2 December 2019.
 - The development proposed is conversion to one residential unit.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal scheme is a change of use of an agricultural building to a dwellinghouse (Class Use C3). Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of Q(a) 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 (dwellinghouses) of the Schedule of the Use Classes Order¹, and Q(b) building operations reasonably necessary to convert the building

Application for costs

3. An application for costs was made by Mr C W Moore against Cheshire West & Chester Council. This application is the subject of a separate Decision.

Main Issue

4. The main issue in this case is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015, having particular regard to whether the building operations proposed are reasonably necessary for the building to function as a dwellinghouse with particular regards to the blockwork walls of the building and the underpinning of the existing foundations.

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

Reasons

5. The GPDO states at paragraph Q.1(i) that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or external walls or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.
6. The Planning Practice Guidance (PPG) states at paragraph 105 that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, 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, would be permitted. However, the PPG clarifies 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 is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right.
7. Work to convert the building to a residential dwelling includes the replacement of the roof sheets with profile metal cladding, increasing the height of the block work walls and the insertion of rooflights, windows and doors. Class Q(b) specifically allows these works, including for the installation or replacement of exterior walls to the extent that they are reasonably necessary for the building to function as a dwellinghouse.
8. With regards the works to the walls, the Council have cited an appeal² where the Inspector found that, amongst other matters, the extent of works to the walls would amount to a substantial re-building of the pre-existing structure that would effectively create a new building. However, in that instance the existing building was described as having "some limited areas of brick and block work at low level, the vast majority of its outer walls consist of sheet metal cladding. Overall, it is a relatively insubstantial structure".
9. At the site visit I saw that the existing building is a substantial structure consisting of a steel frame under a pitched roof with the lower portion of the walls is constructed of block work with timber boarding above. The floor is constructed concrete and appears substantial. As such, the appeal building differs significantly from the insubstantial structure described in that appeal.
10. Therefore, on the basis of the evidence before me conclude that such works referred to previously are specifically allowed under Class Q(b) and are reasonably necessary to convert the building.
11. However, the Structural Engineer's report³ details that the existing foundations beneath the blockwork walls will be underpinned where depth is inconsistent, specifically where "where the foundation depth is less than 750mm below existing ground level. Where underpinning is required, the minimum thickness of concrete is to be 400mm".

² APP/A0665/W/18/3199230 Dodsley Farm, Beech Lane, Norley, Northwich, Cheshire, WA6 6LN - 19th July 2018

³ PKD Consulting Engineers: reference M696-0719 - 27 September 2019

12. With regards whether the proposed works are deemed 'reasonably necessary', foundations are not included in the list of permitted operations under Class Q.1 (i). Nor do I consider they are not development under Section 55 (2) (a) of the Town and Country Planning Act 1990 (as amended) as they would go beyond the 'maintenance, improvement or other alteration' of the building and by their very nature being beneath the building, in the ground, are not internal works.
13. I note that works to the foundations are to improve the depth to a consistent level. However, it is not clear from the Structural Engineer's report what the current depth of the foundations are and therefore how extensive the works will need to be.
14. As a result, I find that on the basis of the evidence before me it has not been demonstrated that the extent of the works proposed in order to enable the conversion of the building to a dwellinghouse would be reasonably necessary to convert the building.

Other matters

15. I have been provided with numerous appeal decisions by the appellant. While I note that some of the findings within the Decision Letters support my findings in respect of the proposed work to the walls and roof of the structure, none of the appeals specifically referred to the issue of inconsistent foundation depth and the need for underpinning. In any event I have reached my own conclusions on the appeal proposal on the basis of the evidence before me.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

Mark Brooker

INSPECTOR