
Appeal Decision

Site visit made on 27 January 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2020

Appeal Ref: APP/J0405/W/19/3240999

**Agricultural Building, South End Farm, South End Lane, Northall,
Bedfordshire, LU6 2EX**

- 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 P Flitton against the decision of Aylesbury Vale District Council.
 - The application Ref 19/01855/COUAR, dated 13 May 2019, was refused by notice dated 8 July 2019.
 - The development proposed is determination as to whether prior approval is required in respect of transport and highway impact, noise, contamination risk, flooding and location considerations for the conversion of agricultural barn into 2 dwellinghouses (Class Q(a)) and in relation to design and external appearance of the building (Class Q(b)).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of the proposed development from the Council's decision notice as the description of development on the application form made reference only to the submitted statement and plans. This is also the description used by the appellant on the appeal form.

Background and Main Issue

3. The application was made under Schedule 2, Part 3, Class Q of the GPDO¹. Class Q(a) permits development consisting of a change of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses), with Class Q(b) permitting building operations reasonably necessary to convert the building for that purpose.
4. The permitted development right is subject to a number of limitations set out in paragraph Q.1. There is no dispute between the main parties that the building was in agricultural use on 20 March 2013. The Council has also raised no issue with regards to the proposal complying with criteria Q.1(b)-(h) and (j)-(m). However, the Council considers that the proposed development is not permitted by Class Q because the requirements of Q.1 (i) are not satisfied.

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

5. If the proposal accords with Paragraph Q.1 it is necessary to consider Paragraph Q.2(1) which lists conditions under which the developer must apply to the local planning authority for a determination as to whether prior approval will be required regarding the impact of the development on: (a) transport and highways; (b) noise; (c) contamination; (d) flooding risks; (e) whether the location or siting of the building would make it otherwise impractical or undesirable for the building to be used as a dwellinghouse; and (f) the design or external appearance of the building.
6. The main issue is therefore whether the proposal would be permitted development, with particular regard to whether the requirements of paragraph Q.1(i) would be met, and if so, whether or not prior approval would be required in accordance with the conditions set out in paragraph Q.2(1).

Reasons

Whether the proposal would be permitted development

7. The appeal site comprises a long rectangular, pitched roof barn constructed of timber frame and brick with a corrugated metal sheet roof. There is a small flat roof brick outrigger to the south-west corner of the main building, and the main building here is predominately brick. Above the brick wall to the south-west gable of the main building is a timber frame, which although it appears to have originally been clad with timber, is now largely exposed.
8. The remainder of the building appears to be largely timber framed, clad with either timber board or corrugated sheeting. There are large bay openings to the north-eastern side of the building and this part of the timber frame is more exposed with large sections of cladding missing.
9. Under the provision of Paragraph Q.1(i)(i) permitted development is restricted to 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.
10. The GPDO does not define what is meant by 'reasonably necessary', though the Council have referenced the Hibbitt² judgement which found that the building must be capable of conversion to residential use without operations that would amount to either a complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. As such, if the operations proposed would amount to rebuilding, the appeal should be dismissed on the basis that the proposed development is outside the relevant Class of permitted development rights.
11. Planning Practice Guidance (PPG), which has been updated since the Hibbitt judgment, clarifies that the permitted development right conveyed by Class Q assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations that are reasonably necessary to convert the building, but 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. As such, 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.

² Hibbitt and Another v Secretary of State for Communities and Local Government (1) Rushcliffe Borough Council (2) (2016) EWHC 2853 (Admin)

Whether or not the proposed works go beyond the scope of conversion is a matter of fact and degree and requires an element of judgment.

12. The Acorus 'Schedule of Works and Structural Assessment, 2019' (SA) submitted as part of the proposals states that the building is a traditional brick barn and the brickwork walls are substantial and structurally sound and capable of taking the upgraded roof loadings. However, during my site visit, and as detailed above, I saw that a substantial part of the building is just timber frame with no brickwork, and this also appears to be reflected in the submitted plans.
13. There are large areas of the timber frame exposed to the elements and which appear to be decaying. These include a section above the brick wall to the south-west gable and the whole of the north-east gable. There is little detail on these timber elements within the submission, their condition or the extent to which they would be retained or relied upon.
14. The SA states that the existing roof covering would need to be removed and the roof structure upgraded to include insulation and comply with Building Regulations. It goes on to state that whilst some may require replacement it is proposed to reuse the existing slates. The existing roof is however corrugated metal sheeting and is referenced as such elsewhere in the SA. The submitted plans also indicate the corrugated roof would be replaced with a standing seam roof.
15. The submission also states that the development will not significantly alter the fabric of the building and that exterior works will reflect the existing character, with minimal alterations other than the addition of a small number of openings, and repairs to the brickwork and pointing. It is not clear though what works are proposed to the section of the building where there is no brickwork, and the submitted plans indicate the walls to be finished with render with timber above. Considering the above, the details regarding the type and extent of works required for a conversion are not clear or unambiguous. Furthermore, the details do not appear to wholly reflect the situation and condition of the building at the time of my visit.
16. The letter from Rawlings Limited dated 7 September 2018 states that all of the elements of the building are adequately sized and tied together, and the building is robust and does not require strengthening. However, the letter does not clarify the details of works proposed nor provide substantive details on the condition of the existing structure or whether it can accommodate the loading of the building works without major new structural works or substantial rebuilding.
17. Based on what I have seen and read, I cannot be satisfied as to the extent of works required or whether they would go beyond those considered reasonably necessary for a conversion as listed in Q.1(i). Schedule 2, Part 3, Paragraph W (3) of the GPDO makes it clear that the onus is on the developer to provide sufficient information to establish whether the proposed development complies with any conditions, limitations or restrictions of Class Q. Although the appellant asserts that there will be no new structural work as a consequence of the proposed development, I find the evidence before me is not sufficient to reach such a conclusion for the reasons previously stated.

18. On the basis of the evidence and my observations, I cannot reasonably reach a view that the existing building is already suitable for conversion. Therefore, I am not satisfied that the proposal meets the requirements of Q.1(i) so as to constitute permitted development.
19. Having regard to the above, I conclude that the proposed change of use has not provided sufficient information to establish that it would satisfy the requirements of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 in terms of Class Q (b) and paragraph Q.1(i), having regard to the associated guidance within the PPG, and therefore is not development permitted by it.
20. Given my conclusion that the evidence before me does not establish that the proposed change of use would be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required as it would not alter the outcome of the appeal.

Other Matters

21. The appellant has referred to an appeal decision³ relating to prior approval on another site. Whilst I do not know the full details of that case I note the Inspector was satisfied that the Structural Report submitted with that application reflected their observations on site and included substantive evidence to demonstrate that the building was capable of accommodating the loading of the building works proposed without major new structural works. For the reasons detailed above I am not satisfied that this is the case with the appeal scheme.
22. I also note the appellant's concerns that the Council considered a letter from Rawlings dated August 2017 which they state did not form part of the application. This letter has not been made available to me as part of this appeal and so has not formed part of my assessment.

Conclusion

23. For the reasons given and based upon the evidence before me, I conclude that it has not been demonstrated that the proposal is permitted development under Schedule 2, Part 3, Class Q of the GPDO. The appeal is, therefore, dismissed.

A Denby

INSPECTOR

³ APP/E2530/W/19/3225819