
Appeal Decision

Site visit made on 11 March 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2020

Appeal Ref: APP/K2420/W/19/3236060

Winfrey Farm, Dadlington Lane, Stapleton, Leicestershire LE9 8JL

- 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 Hardingstone Property LLP against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref 19/00538/CQGDO, dated 14 May 2019, was refused by notice dated 3 July 2019.
 - The development proposed is described as 'proposed conversion of existing farm buildings to form 5 dwellinghouses.'
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would consist of building operations other than the installation of windows, doors, roofs or exterior walls or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling house.

Reasons

3. Some building works are allowed under the change to residential use permitted by Class Q. Further guidance on this matter is set out by paragraph 105 of Planning Practice Guidance (PPG).
4. The rights under the relevant class essentially assume that the agricultural building is capable of functioning as a dwelling. It permits building operations which are reasonably necessary to convert the building, which may include those which would affect its external appearance and would otherwise require planning permission. These can include those listed above. It is not the intention of Class Q 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. With this in mind, the rights allow for a scope of building works that has an implicit limitation.

5. The complex of buildings in the case of the appeal site is made up of three separate structures that are sited line abreast, running south from Dadlington Lane. Building 1 is a small, gable roofed single storey brick and tile shed type building abutting the back edge of the road. It is open to the road side. Building 2 is a wider and slightly taller shallow pitched steel framed building which the evidence suggests was for livestock. It has a lean to extension to one side. The steel frame is built on a concrete pad foundation and supports a profile sheet roof. The side walls are constructed of single skin concrete blockwork part way up, with the remainder in timber slats. There are large openings in the front and rear elevations of building 2. The aforementioned method of construction was also used for building 3 which is taller and narrower. The blockwork in this case runs up approximately eight courses and the majority of the remainder of the walls are finished in timber slats. One side of this building is completely open.
6. The appellant has provided details to demonstrate that the buildings are structurally sound. I have no reason to doubt them. Indeed, I would expect a relatively modern farm building erected around and supported by a rigid steel frame to be so. There is some damage to all buildings but such that could be reasonably considered repairable without rebuilding. I also agree that the works proposed by the appeal scheme would be of the type that Class Q would permit.
7. Nevertheless, and in the case of buildings 2 and 3, the schedule of works provided is extensive. It seems that the entirety of the roof covering of each of these buildings would be removed and it does not look like they would be re used. It appears from the evidence that the existing concrete blockwork in the case of both buildings 2 and 3 would be retained. It is not clear as to whether the timber cladding that covers the remainder and indeed the majority of the walls would also be retained. The schedule of works explains that works to walls would include some limited new blockwork and the visuals I have seen do show timber cladding for the majority of the walls but given its existing weathered condition and the fact that in the case of building 2 it does not meet the blockwork in a number of places new timber work would more likely than not be used. The entire side elevation of building 3 is absent from the ground to the eaves. This would require an entirely new wall from the ground up which would be a substantial amount of new building work in itself.
8. Most internal work to buildings considered under Class Q would normally be permitted. That said, I note the schedule of works would include the creation of plots 2 and 3 (out of building 2) would be built in new blockwork off a new foundation. This would involve invasive alterations to the existing concrete floor slab and forming wholly new foundations.
9. In order to facilitate the change of use proposed, and based on what I have seen, buildings 2 and 3 would be stripped back to what is essentially a skeletal form. That being a metal frame with blockwork to its lower sections. Whilst this blockwork would be retained, it forms a contextually small percentage of each wall in the case of both buildings. In effect, more wall would be new than there is existing. Even more so in the case of the creation of the plots as part of building 2 and the wholly new wall to building 3. There would be an entirely new roof covering in the case of buildings 2 and 3.

10. As I have alluded to above, I acknowledge that the nature of the works that would be undertaken to the building are listed in PPG and Class Q as being permitted. Noting as I do that it is possible for the external appearance to change. However, that is not necessarily to mean that if all of that which is allowed is carried out it would not amount to something more than that which would be acceptable. In this case, it is the amount and scale of new building work when taken together which, for me, takes this project out of a conversion and into too much rebuild to create five dwellings. The eventual dwellings (at least in the case of those made out of buildings 2 and 3) would be more akin those that happen to incorporate elements of a previous structure rather than a building that is in the main being used as the eventual dwelling(s).
11. I am reminded of the Hibbitt¹ case in the submissions from both main parties and whilst I could not say conclusively the scheme in that case was the same as the one before me, the findings set out that the difference between a conversion and a rebuild is a matter of legitimate planning judgment as to where the line is drawn. Based on the evidence before me in this case, I have exercised such a judgement.

Other Matters

12. The appellant has drawn my attention to a number of other appeal decisions which have allowed a change of use from agricultural buildings to dwellings recently. These are both in Oakham, Rutland. Appeal references APP/A2470/W/19/3221217 and APP/A2470/W/19/3221197 sought the creation of three dwellings and single dwelling respectively. Of the limited information I have before me on these two cases I can see there are some similarities with the case before me in the type of building concerned. However, I refer back to the findings in Hibbitt concerning the extent of works being a matter of legitimate planning judgement. It is my view that, on the basis of the existing buildings and the scale of works taken together, they would amount to more than a conversion project that would facilitate a change of use. My findings in this case do not therefore change as a result of my colleagues' decisions in the cases cited.

Conclusion

13. It is for the reasons that I have explained above that the appeal scheme would consist of building operations other than the installation of windows, doors, roofs or exterior walls or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling house. It would therefore not comply with the description of permitted development as it is set out by Class Q, of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The appeal is therefore dismissed.

John Morrison

INSPECTOR

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