
Appeal Decision

Site visit made on 13 January 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th March 2020

Appeal Ref: APP/Y2810/W/19/3241144

Hall Farm, Creaton Road, Northampton, Northamptonshire NN6 8LH

- 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 Mrs Jacki Canham against the decision of Daventry District Council.
 - The application Ref PD/2019/0045, dated 25 June 2019, was refused by notice dated 29 August 2019.
 - The development proposed is the change of use of a building and any land within its curtilage from use as an agricultural building to a use within Class C3 (dwellinghouse) to include building operations reasonably necessary to convert the building under Class Q (a) and/or (b) of part 3 of schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. As part of the appeal submissions, the Appellant has submitted amended plans for both of the buildings subject to the appeal proposal. Looking at the changes between the plans considered by the Council and the amended plans these appear to significantly change the amount of re-building work on the elevations to these buildings. However, when considered in the context of the other supporting information, these show more clearly the elements which are new and those which are utilising the existing external materials.
3. In considering whether to accept these plans, I am mindful of the principles of the Wheatcroft case (Bernard Wheatcroft Ltd. v Secretary of State for the Environment and Another 1982). However, in this case, I consider that the amended plans would not give rise to any prejudice to any party by accepting them at the appeal stage. I have therefore determined the appeal on the basis of the amended plans.

Main Issue

4. The main issue is whether the proposal is permitted development.

Reasons

5. Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of the change of use of a building (and any land within

- its curtilage) from an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Class Q also allows any building operations reasonably necessary to convert the building.
6. The Council have indicated that they consider that the buildings were in agricultural use at the key date of 20 March 2013. At my site visit I observed various domestic items in these buildings. However, the evidence before me suggests that the buildings lawful use is solely for agricultural purposes.
 7. The Council's main contention is that the building operations required would go beyond what could be reasonably considered to be a 'conversion' and therefore the proposal would not be 'permitted development'.
 8. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It 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).
 9. Paragraph 105 of the Planning Practice Guidance (PPG)¹ provides further clarification. The guidance 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.
 10. Barn 1, which is located immediately to the rear of Creaton Road, is a brick-built barn with a corrugated roof supported by a timber framework. This also includes timber supporting posts to the internal courtyard elevation which is currently open. On the north side of the barn is a smaller section which is clad in corrugated sheeting to the side. The barn has a mud floor, with the exception of the smaller section which has a floor laid with bricks.
 11. I note that the Council have considered that it is the extent of alterations which would go beyond what could be considered to be a conversion. The Appellant has indicated that the wall area of the whole building is around 111 square metres and the covered area (of the walls) amounts to around 75 square metres. This suggests that around 68% of the external walls already exist.
 12. The Council have set out that the barn has an external area of 231 square metres and the proposal retains approximately 79 square metres of the existing materials (which equates to around 34%). However, it is unclear how the Council have arrived at their figures. Whilst the level of retained wall covered is similar to the Appellants figure, the overall size of the building is significantly different, to the extent that given the works proposed the Councils figures cannot be an accurate representation. I therefore consider that the Appellants figures represent a more accurate position.
 13. Notwithstanding that, the structural report submitted with the application acknowledges that the timber supporting posts (to the open frontage) need to

¹ Reference ID: 13-105-20180615– Revision date 15 06 2018

be provided with a more robust and protective foundation. It also acknowledges the need for a new concrete slab floor.

14. In addition to the above, the proposed development includes a new brickwork wall to the internal courtyard elevation. In my view, in order to support such a wall there would be a need for new foundations (which is a structural element) and no evidence has been submitted to indicate that this would not be the case.
15. It could be considered that such foundations would be reasonably necessary for the installation of an external wall (and as the external wall would be reasonably necessary to use the building as a dwelling) then this would fall within the remit of the permitted development rights.
16. However, I am conscious that the evidence before me points to the fact that the foundations for the supporting timber posts would also need to be strengthened. It is likely that these would be in the same broad position of the foundations required for the new external wall, to the extent that it is likely that such foundations would support both the existing structure and the new wall.
17. The excavation and installation of foundations are not included in the list of permitted operations set out in Paragraph Q.1(i) nor could they be considered to be works which would be exempted from the meaning of development under section 55(2) of the Act.
18. Taking all of the above into account, and in particular the totality of the works required, to my mind this requirement would go beyond the intention of the permitted development rights.
19. Turning to Barn 2, which plots 2 and 3 would be created from, this is a concrete framed structure which appears to be in a good structural condition and the Council acknowledge that the frame and purlins are suitable for continued use.
20. However, the structural report notes that a new wall will need to be provided to the rear elevation as the rear enclosure of the barn is in effect a garden wall. Also, as the building has a muck floor, this will need to be replaced with a concrete floor which the structural report suggests that this could be designed so that it supports a first-floor structure. The structural report does not comment as to whether the existing building would be capable of supporting a first floor and the indication that the new floor could be designed to support such a structure suggests that the frame of the existing building could not be used to support the first floor.
21. The appellant has provided information which indicates that 88% of the building already has wall covering (199 square metres of 227 square metres). However, given that a new rear wall is required for the building, this figure is misleading as the Appellants level of enclosure takes into account the garden wall. Indeed, if the required new wall to the rear is taken into account, this figure falls to between 55 and 56%. Furthermore, it is noted that there are other parts of the building which would have replacement cladding as well which is not taken into account in respect of this overall figure.

22. The Council have suggested that the building has an external area of approximately 350 square metres of which only 36 square metres are existing (which equates to around 10% of the walling of the building).
23. Regardless of the accuracy of these figures, it is clear that the proposal would involve a new rear wall and a significant proportion of the building frontage as well, together with a smaller proportion of new walling to the north elevation. Additionally, the south elevation would be altered to allow for new windows and door openings.
24. The proposal includes a new first floor to the building and little detail has been provided as to how this would be supported, with the main information being contained within the structural report.
25. Whilst I acknowledge that internal works are not development by virtue of section 55 (2)(a) of the Act, it also states that the carrying out for the maintenance, improvement or other alteration of any building of works which affect *only* (my emphasis) the interior of the building or do not materially affect the external appearance of the building shall not involve development of the land.
26. The structure to support the first floor (whatever that might be) would not be required for the continued use of the barn for agricultural use and its purpose is clearly part of the residential conversion. The development (when taken as a whole), including the insertion of the first floor and its associated windows to the external face of the building, would result in alterations which clearly involve more than internal works. I also consider that the insertion of windows and doors to the walls would have a material impact on the external appearance of the building. Therefore, the works (when taken as a whole) would amount to development.
27. The GPDO does not, as a matter of fact, make provision for the insertion of a floor in the list of building operations within paragraph Q.1(i). Notwithstanding that, even if it did, I consider that the insertion of a first floor would not be reasonably necessary (in the sense of it being essential) for the barn to function as a dwellinghouse. Furthermore, it is unclear how the first floor would be supported. From the limited information before me, on the balance of probabilities, the insertion of the first floor is likely to include a new structural element.
28. Taking all of the above into account, and in the absence of any convincing evidence to the contrary, I am of the opinion that the works involved to use barn 2 as two dwellings would also go beyond the intention of the permitted development rights.
29. In coming to the above views (for each barn), I am mindful of the Hibbit² case as to whether a proposal would amount to a conversion or a rebuild. As noted above, the proposal does not include full details of how the buildings would be 'converted' or re-built. In the absence of such detail, I must find that the proposal would not be permitted development.

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

30. The Appellant has also drawn my attention to various appeal decisions for other Class Q proposals³. In addition to the above, the consistency of the Councils decision making has been questioned with examples of other Class Q proposals⁴ being permitted.
31. Whilst there are some similarities with these schemes to the scheme before me, from the evidence before me, there are also material differences. For example, the barns in the Church Farm, Overstone Park, Overstone scheme already have a concrete floor and that no structural works would be required which differs from the proposal before me. Moreover, each case must be considered on its individual merits.

Conclusion

32. For the reasons given above, I conclude that the works necessary to create the dwellings from the buildings on site would not fall within the scope of that permissible under Part Q(b) and therefore would not be permitted development and therefore the appeal must be dismissed.

Chris Forrett

INSPECTOR

³ Including references APP/J3270/W/17/3179581, APP/V0510/W/18/3198442, APP/Z3825/W/18/3211612, APP/Y2810/W/19/3234721 and APP/Y2810/W/19/3234921

⁴ Including PD/2019/0019, PD/2019/0023 and PD/2019/0042.