



Appeal Decision

Site visit made on 17 March 2020

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 April 2020

Appeal Ref: APP/Q3305/W/19/3241759

**Agricultural Building, Manor Farm, Emborough, Radstock, Somerset
BA3 4SG**

- 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 (GPDO).
 - The appeal is made by Mr & Mrs P & K Trippick against the decision of Mendip District Council.
 - The application Ref 2019/2016/PAA, dated 8 August 2019, was refused by notice dated 26 September 2019.
 - The development proposed is change the use of the existing agricultural building to form a single dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The GPDO 2015 was amended by virtue of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 which allows for agricultural buildings of a greater floor area to be considered and/or for a higher number of dwellings to be formed than under Class Q of the 2015 GPDO. I have noted the relevance of this amendment in relation to this appeal.

Main Issue

3. The main issue is whether the proposal under Class Q.1(i)(i) would consist of building operations that exceed those permitted as reasonably necessary for the building to function as a dwellinghouse.

Reasons

4. Paragraph Q.2(2) of the GPDO requires prior approval of five matters. These are: (a) the transport and highways impacts of the development; (b) noise impacts; (c) contamination risks; (d) flooding risks; and (e) whether the location or siting of the building makes it otherwise impractical or undesirable to change it from agricultural use to a dwellinghouse.
5. Schedule 2, Part 3, Paragraph W of the GPDO requires that prior approval applications must be submitted with a plan indicating the site and showing the proposed development. The Local Planning Authority may also require the developer to submit such information as may reasonably be required in relation to the proposed building or other operations.

6. The building has a portal frame steel structure and dual pitched roof covered with corrugated fibre cement sheets. The front part of its floor is concreted and a larger section towards the rear is formed from compacted earth. The building has an open front elevation, enclosed only by low metal railings and feeding troughs. The appellant's evidence indicates that approximately 62% of the remainder of the building's sides and rear elevation are formed of concrete panels and spaced timber boarding. The concrete panels extend to approximately 1.5 metres high, with the spaced timbers forming the larger proportion of the walls to eaves level.
7. The proposal would involve creating a single residential unit with three bedrooms. Aside the key living spaces, it would also have an undercover carport. The proposal would involve building up the walls using blockwork, removing and then replacing the timber boarding to clad the new walls. It would involve the construction of the fourth wall in full, insertion of windows and an entrance door, along with works to provide insulation beneath the existing roof sheets and an insulated floor across the entire building.
8. The proposal is described as involving the retention of the structural frames, roof, foundations and walls. The submitted structural reports suggest that the frames of the building are sufficiently robust to withstand the additional loadings from the construction of the new wall and sections of walls, the windows and roof insulation. I have no evidence to suggest that the integrity of the structure is compromised in any way.
9. It is confirmed in the Planning Practice Guidance (PPG) (Paragraph 105, revision date 15.06.2018), that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. There is no doubt that the building is one capable of functioning for agricultural purposes; indeed, it was being used to house livestock at the time of my site visit. However, it is clear that it would not function as a dwelling without substantial interventions.
10. The building is not watertight. Aside the unenclosed front elevation, the timber boards are spaced apart and the concrete panels and timbers are also offset from each other by the width of the steel frame. These factors indicate that there are substantial gaps in the envelope of the building. I accept that there is no specification in Class Q or in the PPG about what amount of new walls are permissible. However, the absence of definition and clarity is not uncommon and requires the exercise of judgement in a planning context.
11. In this case, whilst it is stated that the full extent of the walls, amounting to approximately 62%, are being used in the conversion, it is clear that the timber proportion, amounting to at least half of that, is in fact being removed once block walls have been built within and upon the existing concrete panels to eaves level. The timber boards are also intended to form only the cladding of the new walls, meaning that the dwelling would rely purely on the skeletal structure provided by the steel frame, its roof and foundations, partial concrete floor and the concrete panels of approximately 1.5 metres in height that surround much of three sides.
12. Only then, would the timber boards be reapplied and supplemented for purely aesthetic purposes. This indicates that the amount of new walls, as distinct from aesthetic cladding treatment, would greatly exceed that which presently exists to enable the conversion.

13. The suggestion that the proposed design incorporates the majority of the existing openings does not appear to be reflected in the plans, given that there are no openings of a scale similar to that proposed in the existing building. The larger proportion of glazed opening would be created within sections of walls that currently exist, as opposed to in existing void space. Furthermore, that no other demolition would occur and that the methodology of construction could preserve at least as much of the current building at any time does not alter my view that the works go beyond those reasonably necessary.
14. I have been referred by the appellant to the Hibbitt¹ High Court judgement. That judgement upheld an inspector's Class Q decision which found that the reuse of a structurally sound steel frame but little else of the original building went beyond that reasonably necessary for the building to function as a dwelling. Following the line of the Hibbitt judgement, I too accept that some conversions could involve substantial works, but that it presupposes that those works comprise 'conversion'. I also accept that in this case, the works would be reasonably necessary, in the sense of not being superfluous. However, the combination of elements of the building that would be used as a starting point and the extent of works required to create a dwelling point more towards a fresh build and repurposing of an existing minimalist structure as opposed to a conversion.
15. Accordingly, for the reasons set out above, this proposal would not meet the criteria set out in relation to Class Q.1(i)(i) and is not permitted development.

Other matters

16. A number of appeal cases have been drawn to my attention. In the case of APP/E2530/W/19/3225819 (Pepperidge Farm, South Witham), the inspector determined that there was sufficient evidence to conclude that the agricultural building did not need any structural interventions and that the works to convert it did not go beyond that reasonably required. In that case, the building had a full concrete floor, full sheet walls and was watertight. In its original state it could have functioned as a very rudimentary dwelling which is not possible in this case. Furthermore, the PPG no longer emphasises structural stability as the main determiner as to whether the development is permitted under Class Q.
17. In relation to APP/R0660/X/17/3175487 (Grasslands Nursery, Nutsford), I accept that the buildings appear similar from the limited photographic evidence and that the inspector in that case deemed the works to constitute a conversion without doubt about the building's structural integrity. However, for the reasons set out above, though the differences may be modest, the building in this case does not appear capable of being converted without a degree of works that go beyond what I consider reasonable to allow it to become a dwelling.
18. In respect of APP/V3310/W/17/3181124 (Higher Hockpitt Farm, Bridgwater), I have not been provided with substantive details in respect of this case and am therefore not able to conclude that they are comparable to the appeal scheme before me. Furthermore, I am obliged to consider the appeal on its own merits and am not bound by the findings of my colleagues or the Council in respect of other developments in any event.

¹ [Hibbitt and another v Secretary of State for Communities and Local Government and another \[2016\] EWHC 2853 \(Admin\)](#)

19. Lastly, I note the appellant's suggestion that in the event of a dismissal, works to the building could be undertaken under the agricultural permitted development rights given under the GPDO Class 1, Schedule 2, Part 6 and that a subsequent Class Q application could then be submitted. Whilst I cannot determine the appeal on the basis that any such works would be implemented, for the permitted development rights to apply under Class Q, Q.1 (f), works under Part 6 cannot have been undertaken on the agricultural unit since 20th March 2013.

Conclusion

20. The proposal would consist of building operations that go beyond that reasonably necessary for the building to function as a dwellinghouse, and therefore conflicts with Class Q.1(i)(i) of the GPDO. Therefore, the proposal is not permitted development but one for which an application for planning permission is required.
21. For the reasons set out above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Hollie Nicholls

INSPECTOR