



Appeal Decision

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15th May 2020

Appeal Ref: APP/D0515/W/20/3244922

**Farm Building East of 16 Turningtree Road, Whittlesey, Cambridgeshire
PE7 2HB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Chapelbridge Farms against the decision of Fenland District Council.
 - The application Ref F/YR19/0669/PNC04, dated 26 July 2019, was refused by notice dated 25 September 2019.
 - The development proposed is the change of use from agricultural building to a single storey 2-bed dwelling (Class Q (a) and (b)).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In response to travel restrictions currently in place due to the COVID-19 pandemic I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. The Appellant has agreed to the appeal proceeding on this basis.
3. In addition to the above, the Council have confirmed that they no longer wish to pursue the element of their reason for refusal relating to the site curtilage. Given the evidence before me, I have no reason to disagree with that view.

Main Issue

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

Reasons

5. The appeal site is located to the east of Turningtree Road (to the south side of Whittlesey Dike) and is accessed via a track from the road. The appeal building is used for general farm storage and consists of a metal framed structure which is clad on three sides with profiled tin sheets with a cementitious fibre lightweight profiled sheeted roof. The floor of the building consists of a mixture of soil and mixed hardcore hogging.
6. 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.
7. The Council's main contention is that the building operations required would go beyond what could be reasonably considered to be a 'conversion'. Therefore, it is the Council's view that 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. From the evidence before me, the proposal includes the removal of all of the cladding to the building so that the only remaining element of the building would be its steel framework. The proposal would then install entirely new cladding to all sides of this framework and also a new floor. Whilst I accept that substantial works could fall under the scope of Class Q, they nonetheless presuppose that the works comprise a "conversion". I am also conscious of the Hibbit² case as to whether a proposal would amount to a conversion or a rebuild.
 11. In this case, the building works outlined above include the complete removal and replacement of all walls and the roof. To my mind, this goes well beyond what could reasonably be described as a conversion. In coming to that conclusion, I acknowledge that the existing steel frame of the building would be the main structural element and that the structural report confirms that the foundations and the steel frame and roof trusses are capable of providing the necessary support to enable the building to be converted to residential accommodation. However, that does not in itself indicate that the proposal would be a conversion as opposed to a rebuild.

Conclusion

12. For the reasons given above, I conclude that the works necessary to create the dwelling from the building 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

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

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