



Appeal Decision

Site visit made on 23 June 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2020

Appeal Ref: APP/P3040/W/20/3247011

Home Farm, Landmere Lane, Ruddington, Nottinghamshire NG11 6ND

- 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 Pip, Mike and Colin Machin against the decision of Rushcliffe Borough Council.
 - The application Ref 19/02105/PAQ, dated 9 September 2019, was refused by notice dated 14 November 2019.
 - The development proposed is the conversion of an agricultural building to 1no. dwelling house.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal relates to a barn-type building set within a plot of around 0.4 hectares, which the appellant wishes to convert to a dwelling (Use Class C3) under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 (hereafter 'the GPDO').
3. Schedule 2, Part 3, Class Q(b) permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use as a dwellinghouse, along with the building operations reasonably necessary to convert the building. In considering proposals for development under Class Q(b), a determination must first take place as to whether the proposal constitutes permitted development. In the event that it does, Paragraph Q.2(1) requires the local planning authority to assess the impact of the proposed development on a limited number of 'prior approval' matters.
4. The application was refused on the basis that the proposal would not be permitted development, for three reasons. Firstly, that it fails to comply with the provisions of Paragraph Q.1(a), which provides that development is not permitted by Class Q if, amongst other things, the building was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013 or, in the case of a building which was in use before that date but was not in use on that date, when it was last in use. Secondly, that it fails to satisfy the requirements of Paragraph Q.1(b) in that the physical works to carry out the proposed change would go beyond the building operations reasonably

necessary to convert the building. Finally, the Council considered that the curtilage of the proposed change of use exceeded the restrictive limit described in Paragraph X of Schedule 2, Part 3 of the GPDO. The Council raised no concerns in respect of the 'prior approval' matters.

5. The main issue is therefore whether the proposal represents permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Reasons

Agricultural Use

6. Under paragraph Q.1.(a) of the GPDO, development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or when it was last in use in the case of a building previously in use but no longer in use on that date. In this context, 'established agricultural unit' is defined in Paragraph X as 'agricultural land occupied as a unit for the purposes of agriculture'.
7. The submitted prior approval notification form states that the building was in use on 20 March 2013 as an agricultural barn. The appellants have indicated that neither the building nor the land have been intensively used for agricultural purposes in recent years. While a timescale for the decline or cessation of agricultural use on the site has not been specified, an interested party suggests that it may be 25 years or more since the wider site was used for grazing. The appellants have provided undated photographs showing the building and site being used for sheep shearing. However, this evidence merely demonstrates that the building has been in an agricultural use in the past and, as the appellants point out, there is no requirement for the building to be currently in agricultural use. The building would still qualify for the permitted development right under Class Q if it was no longer used for agricultural purposes, provided it has not been used for any other purpose since ceasing to be used for agriculture.
8. At the time of my site visit, much of the site was overgrown and the building itself appeared to be in limited use. Various items such as tractor wheels and pieces of machinery which were clearly agricultural in purpose were being stored in the building. However, it was also being used for the storage, or possibly abandonment, of assorted domestic goods including wardrobes, bookcases and garden furniture, and appliances including a wrapped kitchen cooker and a vacuum cleaner. There is no planning history regarding any change of use of the appeal building, and indeed the use of the building for the limited storage of domestic paraphernalia may not necessarily constitute a material change of use. However, Class Q of the GPDO does not permit any intervening use, or mixed-use, whether short or long-term.
9. I accept that, as the appellants indicate, their family has farmed the site for some considerable time and that they continue to do so elsewhere in Rushcliffe. However, this does not in itself settle the status of the appeal building. On the basis of the evidence before me and, in the light of my observations that the appeal building is, at least in part, being used for some non-agricultural purpose, it has not been demonstrated that the building has been used solely for agricultural purposes as part of an established agricultural unit. I therefore conclude that the proposal does not satisfy the requirements

of Paragraph Q.1.(a) of Schedule 2, Part 3, Class Q of the GPDO, and is not therefore permitted by it.

Building operations

10. The existing barn sits on a concrete base and has a timber roof frame, the central supports being formed of reclaimed telegraph poles. The lower parts of the external walls are of concrete blockwork, with the upper sections and roof clad in corrugated steel sheeting.
11. Paragraph Q.1(i) of the GPDO lists the building works permitted to facilitate the change of use of an agricultural building to a dwellinghouse. These are the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services, as well as partial demolition to the extent reasonably necessary to carry out these building operations. The Planning Practice Guidance (the PPG) provides further information in that regard, by stating that the right assumes that the agricultural building is capable of functioning as a dwelling¹. The PPG adds that it is only where the existing building is already suitable for conversion to residential use that it would be considered to have the permitted development right.
12. A structural report submitted with the application concluded that the main timber framework of the building is in an acceptable condition to consider adapting it for conversion into a residential type property, although it did warn that its main structural members may require upgrades or additions to ensure that the building satisfies the latest codes of practice and building regulation standards.
13. The Council referred me to the High Court judgment in the *Hibbitt* case², in which it was held that, for the permitted development rights under Class Q(b) to apply, the building must be capable of conversion to residential use without operations that would amount to a rebuild of the existing structure or a fresh build, as such works would go beyond what could be considered a conversion. I acknowledge that there are differences between the building in *Hibbitt*, which was a steel-framed barn open on three sides, and that in the case now before me. Nonetheless, *Hibbitt* sets principles which are applicable to this appeal, not least that it is for the decision maker to exercise judgement in each case by considering the type and extent of works proposed.
14. The proposed works here include the replacement of the lower blockwork walls with new brickwork, the replacement of the existing corrugated sheeting with insulated larch board cladding for the walls and proprietary insulated panelling for the roof, and the installation of new external doors and windows, as well as various interior works. Effectively, the only remaining parts of the existing structure which would be retained would be the timber framework and the concrete floor slab.
15. In this case, as the appellants have pointed out, the individual elements of the works proposed each fall within those specified in Paragraph Q.1(i). Nonetheless, taken as a whole the building operations which would be required to provide a building suitable for residential use would be extensive and

¹ Paragraph 105 – Reference ID: 13-105-20180615

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

significant. In my view these are cumulatively so extensive that they would be more akin to a rebuild than a conversion of the existing buildings.

16. I therefore conclude that the proposed development would not satisfy the requirements of Paragraph Q.1.(i) of Schedule 2, Part 3, Class Q of the GPDO, having regard to the associated advice within the Planning Practice Guidance, and is not therefore permitted by it.

Curtilage

17. The 'red line' boundary on the application plans indicated an appeal site area of around 4,380m², with the footprint of the building proposed for conversion being approximately 307m². However, the application plans also show a 'garden curtilage' of 125m² immediately next to the building, and this smaller area complies with the restrictive limit described in Paragraph X of Schedule 2, Part 3 of the GPDO. Had the proposed development been acceptable in other regards it would have been possible to impose a condition which made clear that the permitted change of use was limited to this smaller area.

Conclusion

18. For the reasons given above, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. It is development for which an application for planning permission would be required.
19. The appeal is therefore dismissed.

M Cryan

Inspector