



Appeal Decision

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2020

Appeal Ref: APP/Y3940/W/20/3244974

Barn adjacent to 9 Lower Lodge Farm, Pewsham, Chippenham, Wiltshire SN15 3QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Baker against the decision of Wiltshire Council.
 - The application Ref 19/10252/PNCOU, dated 17 October 2019, was refused by notice dated 17 December 2019.
 - The development proposed is conversion of existing agricultural barn into a single C3 dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. With the agreement of the parties, I have determined this appeal based on the submitted evidence (including pictures of the appeal building provided as part of the Council's statement) without the need for a formal site visit.
3. The description of development in the banner heading above is taken from the planning application form. It differs from that on the appeal form and decision notice which read 'notification for Prior Approval under Class Q for a change of use of agricultural building to a single dwelling house and associated operational development'.

Background and Main Issue

4. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses), and (b) development referred to in (a) together with building operations reasonably necessary to convert the building.
5. 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).

6. Paragraph 105¹ of the Planning Practice Guidance (PPG) provides further clarification. The guidance states that it is not the intention of the permitted development right to include the construction of new structural elements for the building. The existing building should be structurally strong enough to take the loading which comes with the external works to the building.
7. Furthermore, my attention has been drawn to a High Court Decision² (Hibbitt) where the Judge concluded that the building must be capable of conversion to residential use without operations that would amount to either complete or substantial re-building of the pre-existing structure, or in effect, the creation of a new building. I acknowledge that the proposal in this instance would differ from that which was the subject of the Hibbitt judgement, however, the guiding principles remain.
8. Therefore, the main issue in this appeal is whether the proposed development would be granted planning permission by Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO, with particular regard to Paragraph Q (b) building operations reasonably necessary to convert the building.

Reasons

9. The appeal building is an agricultural building comprised of two parts. The first is a single storey pitched roof building with a steel frame and timber purlins spanning between frames. The second element is a, largely open, timber framed lean to extending along the length of the main building. The roof coverings of both elements are asbestos sheeting and the elevations are constructed of corrugated steel sheets.
10. The proposal is to convert the building to a single storey, two-bedroomed dwelling with a number of window and door openings. However, little supporting information has been provided with regard to the works which would be required to facilitate this.
11. The application is supported by a letter from a firm of chartered civil and structural engineers (the letter). This letter concludes that the timber framed lean to is of poor construction and condition and goes on to say that it would not be possible to incorporate it as part of a habitable unit. The proposed elevations show the removal of this element of the building.
12. The letter states that the steel framed element is in very fair order and, although the frame is light weight, suggests that it could be readily incorporated as a basic super structure for a single storey dwelling. I have, however, not been provided with detailed information which sets out how this would be achieved or whether any additional structural work may be necessary.
13. Due to the nature of the existing roof, a new roof covering would be required. The supporting letter states that due to the low pitch of the roof only a sheeted roof covering would be appropriate unless the pitch is raised. I acknowledge that a replacement roof is permitted in Q.1 (i). However, no detailed information regarding the proposed roof covering, or any necessary structural change, has been provided

¹ Paragraph ID: 105-20180615

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

and I have not been provided with calculations to indicate whether the existing structure would be capable of supporting a suitable new roof covering.

14. The letter also states that the external sheeting would have to be replaced in order to comply with Building Regulations. It is unclear from the evidence before me the extent to which new external walls would be required; though the Council believe that four new walls would be necessary.
15. Furthermore, the letter does not provide details of the flooring of the existing structure. However, the Council state that there is only a partial concrete floor in situ and, therefore, a new floor or, at least, a significant extension to the existing floor would be required. The pictures on file appear to accord with the Council's observations and the appellant has not disputed the Council's evidence in this regard.
16. In my view, it is not possible to safely conclude that the works proposed would not entail new structural elements for the building on the basis of the limited evidence relating to the structural integrity of the building.
17. I acknowledge that the PPG recognises that internal works are generally not development and that for the building to function as a dwelling it may be appropriate to carry out internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floorspace permitted, or internal walls, which are not prohibited by Class Q. However, I consider that in this instance the works required would be likely to go beyond what is reasonably necessary for the conversion of the buildings into residential use.
18. Whilst I note the appellant's concern regarding the amount of information required and the associated reference to the Gabbittas case³; Schedule 2, Part 3, Paragraph W of the GPDO sets out that an application may be refused where the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified as being applicable to the development in question. In this instance the Council did not consider the appellant's evidence alone sufficiently precise and unambiguous to enable them to ascertain whether or not the existing structure would be capable of the proposed conversion without works which would go beyond what can be considered reasonably necessary to convert the building and refused the application on that basis.
19. I concur with the views of the Council and consider that the submitted evidence is not sufficient to persuade me that the building would be capable of conversion to residential use without operations that would amount to either complete or substantial re-building of the pre-existing structure. As such, I consider that the works would go beyond those permissible under Q.1 (i) and would not meet the requirements of Q (b).

Conclusion

20. For the reasons given above I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO and the appeal fails.

L J O'Brien

INSPECTOR

³ F W Gabbittas v SSE [1985] J.P.L. 630