



Appeal Decision

Site visit made on 28 July 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2020

Appeal Ref: APP/E3715/W/20/3252142

Field House Farm, Near Broadwell, Rugby, CV23 8HP

- 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 Mr Andy Tompkins against the decision of Rugby Borough Council.
 - The application Ref R19/1307, dated 9 October 2019, was refused by notice dated 19 November 2019.
 - The development proposed is prior approval for change of use of agricultural building to 1no. dwellinghouse (Class Q).
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above is taken from the Council's decision notice as the description of development on the application form made reference only to the submitted statement and plans. This is also the description used by the appellant on the appeal form.

Background and Main Issue

3. The application was made under Schedule 2, Part 3, Class Q of the GPDO¹. Class Q(a) permits development consisting of a change of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses), with Class Q(b) permitting building operations reasonably necessary to convert the building for that purpose.
4. The permitted development right is subject to a number of limitations set out in paragraph Q.1. Paragraph Q.1(i) states that development will not be permitted if it would consist of building operations, other than those specifically listed to the extent reasonably necessary for the building to function as a dwellinghouse and partial demolition to the extent reasonably necessary to carry out those operations.
5. The main issue is therefore whether the proposal would be permitted development, with particular regard to whether the proposed building operations would meet the requirements of paragraph Q.1(i).

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Reasons

6. The appeal building comprises a steel framed agricultural building with a pitched roof to the main part of the building and a mono-pitch roof to a lower lean-to section. The front and one side elevation are open sided with the remaining elevations being corrugated sheeting spanning between steel angle side rails. The roof also comprises corrugated sheeting.
7. There is a large door opening to the other side elevation though internally, except for existing supporting columns, the building has an open footprint and is devoid of any internal structures or separation.
8. The proposed dwelling would comprise entirely of newly constructed stone walls and a single storey garage would be created to the rear of the main dwelling. Whilst this would utilise some of the steel structure from the existing mono-pitch section it would also incorporate a new dual-pitch roof section. Furthermore, there would be a flat roof structure to the rear that would incorporate an outdoor roof terrace and the plans also appear to indicate access to this would be available via an external spiral staircase.
9. I saw on my site visit that although the building is not watertight the steel frame appears to be in reasonable condition and apparently intact. However, the works identified would strip back the building to its frame retaining only a skeletal and minimal structure and a substantial part of that would be demolished.
10. Whilst the permitted development allows for the installation or replacement of exterior walls, the proposal would consist entirely of newly constructed walls, of which only 2 small sections would be on the same alignment as existing walls. It is not clear from the submission whether there are existing foundations upon which these new elements could rely.
11. The ghw 'Structural Inspection Report-Barn 2, February 2019' (SA) submitted as part of the proposals states that the structure is of modern construction and therefore suitable for residential conversion. There is however no detail as to whether the existing frame would support the proposed new elements, taking into account demolition proposed, or the extent of any structural works that would be required.
12. The SA does however identify that the existing structure is lacking bracing and adequate bracing would be required to provide overall stability. There are existing steel angle side rails to the side and rear elevations though there is no detail on their condition or the extent to which they would be retained or relied upon.
13. The submission states that the proposed new roof material would be lighter and could be supported by the existing frame. However, the roofing material proposed is not clear. Reference is made to a composite roof panel being installed, whereas the submission indicates elsewhere that a tiled roof is proposed. In any event there is little detail to substantiate this statement and it is not supported by any detailed structural evidence.

14. The GPDO does not define what is meant by 'reasonably necessary', though the parties have referenced the Hibbitt² judgement which found that the building must be capable of conversion to residential use without operations that would amount to either a complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building and therefore outside the relevant Class of permitted development rights.
15. Planning Practice Guidance which has been updated since the Hibbitt judgment, clarifies that the permitted development right conveyed by Class Q assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations that are reasonably necessary to convert the building, but 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. As such, 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. Whether or not the proposed works go beyond the scope of conversion is a matter of fact and degree and requires an element of judgment.
16. From the details before me it has not been demonstrated that the building is already suitable for conversion to residential use, and it is evident that the level of works necessary would be of such magnitude as to constitute a rebuild and go beyond what could reasonably be considered to constitute the conversion of the building. All the walls proposed would be new with the majority being on alignments where no walls currently exist. The garage and single storey structure to the rear would require full construction and result in a materially different roof arrangement and overall, the works would only have a modest amount of help from the original building.
17. Therefore, I am not satisfied that the proposal meets the requirements of Schedule 2, Part 3, Class Q of the GPDO in terms of Class Q (b) and paragraph Q.1(i), having regard to the associated guidance within the PPG, and therefore is not development permitted by it.
18. The appellant has drawn my attention to other appeal and planning decisions relating to proposals under Class Q where they contend works to modern steel framed agricultural buildings were considered to fall within the scope of Class Q.1(i). I do not have the full details of those cases before me though they would suggest that in some circumstances steel framed agricultural buildings may be suitable for residential use. However, I have determined this appeal on its own merits and on the basis of the evidence before me and these examples do not lead me to a different conclusion.
19. Given my conclusion that the evidence before me does not establish that the proposed change of use would be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required as it would not alter the outcome of the appeal.

Conclusion

20. For the reasons set out above the appeal is, therefore, dismissed.

A Denby

INSPECTOR

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