



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/J3720/W/20/3253634

Manor Farm, Luddington, CV37 9SX

- 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 Mycroft Perry (The Happy Farmer Ltd) against the decision of Stratford-on-Avon District Council.
 - The application Ref 20/00883/COUQ, dated 24 March 2020, was refused by notice dated 20 May 2020.
 - The development proposed is change of use of an agricultural building into a residential dwelling (C3) and associated operational development at Manor Farm, Luddington under Class Q parts (a) and (b) of the General Permitted Development Order (GPDO).
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. 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.
3. The permitted development right is subject to a number of limitations set out in paragraph Q.1. Paragraph Q(d) restricts floor space and 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 building operations.
4. The main issues are therefore whether the proposal would be permitted development with particular regard to whether the requirements of paragraph Q.1 (d) and (i) would be met.

Reasons

Whether the proposal would be permitted development

5. The appeal building comprises a steel framed building consisting of 3-bays, each with a barrel roof and an adjacent pitched roof barn. The barrel roof barn

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

is fully enclosed on 2 sides with one bay being clad on the front elevation. Where there are walls these are comprised of corrugated sheeting, as is the roof to each of the bays. The steel frame is fixed in concrete and from what I saw on my visit the floor area comprises of natural soil which rises in ground level from the south to the north of the building.

6. The proposal includes the demolition of the existing pitched roof barn and 1 bay of the barrel roof barn. The roof covering is proposed to be replaced in its entirety and new walls installed to the current open sided sections. The existing north elevation would be partially realigned, with the first floor being set back substantially from the line of the existing wall and a covered balcony area being provided at first floor level.
7. The submission indicates the cladding to the existing walls would be retained, being cleaned and repainted to match, and insulation provided internally. There are extensive areas of full height glazing proposed to the side elevations with a significant proportion of the rear elevation also being glazed. I saw on my site visit that whilst the sheeting to the existing elevations appears to be in better condition than the roof, there were holes present, and it is not clear that it would be retained.
8. The 'JTA Structural Survey on Barns, dated 24 June 2019' (SA), submitted as part of the proposals, states that they consider that overall, the cladding would be removed and replaced as part of the works. In particular, with regard to the side elevation, they do not consider any of the cladding could be retained. It is also expected that the cladding to the rear elevation, due to its condition and nature would also be replaced. The submitted JTA addendum also states that there would be elements for removal but does not provide any further clarity.
9. There are steel angle side rails to the side elevation, though the SA appears to indicate that these could not be wholly relied upon without other works to support the structure. In addition, the construction of the rear elevation to the middle bay is identified as not being structurally sound and would also require replacement.
10. The proposal includes the realignment of the rear external elevation at first floor level to create a covered balcony area. It is indicated that no foundations would be required, and whilst the plans show a concrete slab this is not referenced in the SA. The SA refers only to the floor consisting of dirt and natural soil, this reflects my observations on site. Considering this, the realignment of the rear elevation and re-construction necessary to the middle bay, there is insufficient information to demonstrate that the works would not require structural additions.
11. The works proposed would include a substantial amount of demolition, construction of a new wall, in part to the front elevation, and entirely to the current open side elevation. The rear elevation would require some re-construction and be partially on an alignment where no wall currently exists, and the roof sheeting would be replaced in its entirety. The extent or condition of any existing slab or floor is unconfirmed and there is no detailed structural evidence to demonstrate that the steel frame could accommodate replacement cladding and the insulation proposed without new structural components.
12. The works would strip back the building to its frame, retaining only a skeletal and minimal structure. Based on what I have seen and read it has not been

demonstrated that the building is already suitable for conversion to residential use. It is evident that the works would only have a modest amount of help from the original building and the level of works necessary would be of such magnitude as to effectively constitute a rebuild, with little of the original building being retained, and they would go beyond what could reasonably be considered to constitute the conversion of the building.

13. 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.
14. Planning Practice Guidance (PPG), 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.
15. 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.
16. The appellant has drawn my attention to an allowed appeal relating to proposals under Class Q, where works to a modern steel portal framed agricultural building were considered to fall within the scope of Class Q.1(i). Whilst I do not know the full details of that case, on the basis of the information provided, the building was more enclosed than that at the current appeal site with only 1 open side. The works also do not appear to have been as extensive as those proposed as part of the current appeal scheme. There is no reference to any demolition, realignment or re-construction of existing walls. I therefore do not consider it to be directly comparable.
17. The appellant has stated that the submitted construction details have been considered and approved by the Council on other schemes. In contrast the Council have provided me with an appeal decision³ for a scheme that was dismissed as the works were considered to go beyond conversion. As above, I do not have the full details of these schemes before me, the PPG however is clear that whether or not proposed works go beyond the scope of conversion is a matter of fact and degree and requires an element of judgment. I have determined this appeal on its own merits and on the basis of the evidence before me and these other examples do not, therefore, lead me to a different conclusion.

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

³ APP/J3720/W/18/3210343

Floorspace

18. Under the provision of Paragraph Q.1(d) permitted development is restricted if the development would result in a larger dwellinghouse having more than 465sqm of floor space having a use falling within class C3 (dwellinghouses) of the Schedule to the Use Classes Order.
19. The proposals would include the creation of 465sqm of living accommodation at ground and first floor level. This does not include a large 'void' area shown on the submitted plans at first floor level. The Council contend that this area should be included in the floorspace calculation as it would be accessible to future occupants and windows are proposed.
20. The submission indicates that the structural element of the first floor would not extend across the void. Whilst it appears that the void may be partially open, visually, from the mezzanine, with the same arrangement being shown to the double height hall, it would not seem to be directly accessible. The void would essentially only comprise the ceiling to the ground floor and the insulation proposed would not be strong enough to support use by any potential future occupants.
21. A number of windows are proposed at first floor level alongside the void area though it is stated that these are only to provide natural light to the building. I have not been provided with any contrary evidence by the Council to demonstrate that the structure would support use, and any works would need to adhere to the details and plans submitted. Therefore, on the basis of the details before me I do not consider it reasonable to include this area in the floorspace calculation. The floorspace to be provided is stated to be 465sqm and this would meet the requirements of Paragraph Q.1(d).

Conclusion

22. Whilst I have not found conflict with Paragraph Q.1(d) 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.
23. 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.
24. Therefore, for the reasons set out above the appeal is dismissed.

A Denby

INSPECTOR