



Appeal Decision

Site visit made on 13 October 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th October 2020

Appeal Ref: APP/J1860/W/20/3256392

Oldbury Farm, Oldbury, Lower Broadheath WR2 6RQ

- 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 Ms Helen Zhang against the decision of Malvern Hills District Council.
 - The application Ref 20/00503/GPDQ, dated 15 April 2020, was refused by notice dated 18 May 2020.
 - The development proposed is change of use of an agricultural building to a dwellinghouse and for associated operational development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application forms did not include a description of development. Consequently, this has been taken from the appeal forms and the decision notice. The appeal has been dealt with accordingly.

Main Issue

3. The main issue is whether the building operations reasonably necessary to convert the building would amount to rebuilding.

Reasons

4. The site is located on Oldbury Farm, and comprises a building constructed as a barn for the purposes of storage related to agriculture. The barn is a large structure of around two storeys in height and sits on the periphery of the farm yard area. The barn's southern elevation is almost completely open, reflective of its existing storage function and the ease such a construction presents when moving agricultural wares to and from the site. The building's metal frame is clearly visible and supports a lightweight and utilitarian form of cladding for the majority of the structure.
5. Part 3, Class Q, Paragraph Q. (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) sets that out development is permitted where it consists building operations reasonably necessary to convert a building from agricultural use to a use as a dwellinghouse.

6. Part 3, Class Q, Paragraph Q.1 (i) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) sets out that development is not permitted where it consists building operations other than what is reasonably necessary for the building to function as a dwellinghouse.
7. Planning Practice Guidance¹ makes clear 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.
8. Given the lightweight nature of the cladding, and notwithstanding whether the existing building is structurally sound as it stands today, it is not clear whether the imposition of additional materials (such as glazing in the walls and roof) and associated weight would be sufficiently supported by the existing structure.
9. Consequently, uncertainties about the load bearing ability of the structure pursuant to the final form of the proposal, means that it is unclear whether there would need to be additional rebuilding work necessary to support the new materials and to facilitate the conversion of the building.
10. In essence, the unknown load bearing requirements of the proposal are acknowledged within the structural report, which states that “the barn is in good structural condition and can be converted into residential accommodation whilst keeping the primary structure...provided that any replacement roof/wall cladding is of a similar weight to the existing cladding”.
11. In addition, and in the absence of evidence to the contrary, it is logical to anticipate that given the utilitarian design of the existing structure, any works to support more robust structural features may require substantial works that amount to rebuilding. This is notwithstanding the imposition of a completely new external wall along the length of the building’s southern elevation, which given that it makes up 25% of the structural elevations of the existing building, would amount to substantial rebuilding in and of itself.
12. This logic is consistent with other appeal decisions² relating to the rudimentary construction of a building and the likelihood of it being suitable for conversion, and is reinforced by a further appeal decision³ and judgement⁴ which follow the principle that a building must be capable of conversion to residential use without operations that would amount to complete or substantial re-building of the pre-existing structure.
13. The appellant questions the relevancy of the judgement, but in my view the proposals share similarities insofar as they are not fully enclosed structures. Notwithstanding the direct relevancy of the other proposals at hand, the principles of the judgement are still valuable and, in this regard, based on the sheer extent of the new elevation as an appreciable component of the wider structure it would amount to substantial rebuilding.

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

² APP/C1435/W/17/3191024

³ APP/Z2315/W/19/3223919

⁴ Hibbitt v SSCLG [2016] EWHC 2853

14. Similarly, the principles underpinning the appeal decisions, are relevant somewhat independent of the respective details of the case, insofar as it is an assessment based on the facts of the case and whether the building is likely to comprise or require substantial rebuilding, whether due to its existing form of construction and load bearing properties, or otherwise.
15. The appeal decisions⁵ relating to the definition of development and what falls within the permitted development regime is noted, as is the Council's lack of dispute within its statement of case. However, the matters underpinning the assessment of the proposal under the appeal have focused on external alterations that amount to development. The applications for other development in the area are also noted.
16. The application⁶ concerning a brick barn does not compare to the proposal here, which is of completely different construction. The application⁷ concerning a barn with new front and rear elevation has some similarities to the proposal but there is no structural reporting in front of me demonstrating that structural considerations are similar, and this is also the case for another application⁸ concerning an open sided barn.
17. The application⁹ concerning a chicken shed related to a fully enclosed building and is not directly comparable. Notwithstanding the relevancy of these applications, I have dealt with the proposal as it appears in front of me, and the particular merits of the case.
18. As development is only permitted under Class Q 'to convert the building' this in my view requires the building to be sufficiently substantial to be capable of accommodating the works proposed without being rebuilt. Similarly, those works should not be so extensive as to amount to re-building rather than conversion.
19. Overall, in addition to the substantial rebuilding of the southern elevation in and of itself, the appellant has not provided sufficient information to demonstrate that the building is capable of conversion without being rebuilt. Consequently, the proposal does not comply with Part 3, Class Q, Paragraph Q.1 (i) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, the proposed development does not benefit from permitted development rights under the provisions of the order.

Conclusion

20. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR

⁵ APP/N1215/W/17/3185230, APP/X1165/W/16/3161110, APP/V3310/W/16/3144195 and APP/Z3825/W/3158801

⁶ 19/01543

⁷ 20/00538

⁸ 20/00653

⁹ 20/00997