



Appeal Decision

Site visit made on 1 December 2020

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/D0840/W/20/3258221

Barn at Trewen Shed, Pensipple Farm, St Keyne PL14 4SP

- 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.
 - The appeal is made by J B Ellis and Son against the decision of Cornwall Council.
 - The application Ref PA20/03779, dated 7 April 2020, was refused by notice dated 20 June 2020.
 - The development proposed is the proposed conversion of an existing barn into single dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Within the reason for refusal the Council have made reference to the proposed development's potential impact on Protected Species. However, it has been confirmed that the Council no longer wishes to pursue this element of the reason for refusal. Accordingly, the appeal has been determined on this basis.

Main Issue

3. Class Q (a) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits the 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) of the Schedule to the Use Classes Order. Class Q (b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above.
4. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO having particular regard to the requirements of Paragraph Q.1.(i) in relation to works reasonably necessary for the building to function as a residential unit.

Reasons

5. Class Q of the GPDO 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 falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order and building operations reasonably necessary to convert the building.

6. 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).
7. The Planning Practice Guidance (the PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted.
8. However, the PPG clarifies 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 use¹. It is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right. This is a matter of fact and degree and requires an element of judgement.
9. My attention has been drawn to the Hibbitt² judgement which relates to the difference between conversions and rebuilding dealt with under Class Q. This is important because if a development does not amount to a conversion it would fail to be development permitted under Class Q (b). The case suggests that an agricultural building may be so skeletal and minimalist that the works needed to alter it to be used as a dwelling would be of such a magnitude that it would be tantamount to a new build or rebuild.
10. The appeal building is a substantially sized three bay barn which, at the time of my visit, was in use for the storage of hay and machinery. The building has a pitched roof, with the pitch of the central section being steeper than the roof which covers the bays either side of the central section. The structure of the barn is formed from hollow steel posts with timber rafters. On three sides, the exterior of the building is covered in vertical metal corrugated sheeting, which is positioned atop of a very low blockwork wall. The front elevation of the building is open.
11. The Appellant's submitted structural report concludes that the building is structurally sound and capable of being converted without any significant structural works. From the evidence before me, the proposal includes the removal of all of the corrugated metal sheeting to the building so that the only remaining element of the building would be its framework and the low blockwork wall on three sides.
12. The proposal would install entirely new cladding to three sides and a new roof. Whilst the Appellant's submissions indicate that the low blockwork wall would be retained, it is noted that the structural report suggests that the northern section of wall showed signs of cracking and historical movement. A new entire front elevation wall would be inserted along with additional windows and

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

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

openings. Internal works would include a new first floor mezzanine and a new lining would be inserted to support the finishes and insulation elements. In this regard, the structural report confirms that the lining is likely to be timber framed which could be designed to be loadbearing and support any additional loads from new ceiling finishes.

13. Individually, none of the identified proposed works would appear to fall outside the operations given in paragraph Q.1(i) of the GPDO. However, the fact then that the proposal does not include operations falling outside those listed in Q.1(i) of the GPDO or those referred to the PPG does not mean that it is automatically Permitted Development within Class Q.
14. I acknowledge that substantial works can fall within the scope of Class Q. Nevertheless, such works should comprise of a conversion of the building rather than a rebuild as confirmed by the Hibbitt Judgement described above. In this instance, the building works outlined above include the complete removal and replacement of all the exterior metal sheeting and replacement of the roof. Additionally, it is not clear from the submissions made as to whether the northern section of the low blockwork wall could be retained in full or, given the cracking and historical movement, would need to be replaced.
15. The evidence also indicates that new framing would be required internally to support elements of the proposal and that this could be designed to be loadbearing. Whilst I acknowledge the Appellant's submissions, I would concur with the conclusions of the Inspector in a recent ³appeal, that such works represent a substantial intervention which would only be required in order to enable the conversion. I would agree that the requirement of such works would indicate that the building is not suitable for conversion.
16. In summary of the above, the question of whether the existing barn is capable of conversion rather than constituting a new or rebuild lies at the heart of the matters contested by the main parties. Based on the evidence before me it is likely that only the minimum skeleton of the barn would be left intact. In my view, the works in totality would be more akin to a rebuild rather than a conversion. The appeal scheme would therefore involve operational development which goes beyond that which is Permitted Development and there is no substantive evidence before me to conclude otherwise. Accordingly, the proposal would not meet the criteria set out in relation to Class Q.1(i) and is not permitted development.
17. In support of the appeal, the Appellant has drawn my attention to a number of other proposals which it is maintained are comparable to the appeal scheme and which have been permitted by the Council. However, from the limited information before me, it appears that the permissions that I have been referred to relate to agricultural buildings which were predominately constructed in materials which differ from the present appeal building. I have limited information regarding the works carried out in those other applications and I cannot be sure that the circumstances of those applications are comparable to the appeal scheme with regards the extent and totality of works required. In any event I have determined this appeal on its own merits.

³ Appeal Reference: APP/D0840/20/3251518

18. The Appellant has further referred me to a previous appeal decision at Goonhavern⁴, in which the Inspector concluded that the proposed works would be permitted under Class Q. However, it is noted from the limited information before me and which concerned that previous appeal, that the cited appeal concerned an agricultural building that was not open on one side and that the decision was made prior to the judgement in Hibbitt. Consequently, while I acknowledge the findings in that case, the schemes do not appear to be comparable in terms of the totality of works required and, as above, I have in any event determined this appeal on its own merits.

Conclusions

19. I have found that the proposed building works would go beyond that reasonably necessary for the building to function as a dwellinghouse and therefore conflicts with Class Q.1(i) of the GPDO. On that basis the proposal is not Permitted Development under Class Q.
20. For the reasons given above the appeal is dismissed.

A Spencer-Peet

INSPECTOR

⁴ Appeal Reference: APP/D0840/W/15/3130961