



Appeal Decision

Site visit made on 1 December 2020

by J Hunter BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/Z4718/W/20/3257667

**148a Walton Cross Paddock, Windy Bank Lane, Hightown, Liversedge
WF15 8EX**

- 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, Paragraph Q.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr C Booth against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2020/90898, dated 9 March 2020, was refused by notice dated 19 June 2020.
 - The development proposed is described as prior notification for change of use from agricultural building to one dwelling and associated building works.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would be permitted development under Schedule 2, Part 3, Class Q (agricultural buildings to dwellinghouses) and Article 3 (5) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

Reasons

3. Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Use Classes Order and any building operations reasonably necessary to convert the building.
4. 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 the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out building operations, as listed above.
5. The Planning Practice Guidance (the PPG) provides further clarification, including 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, such that 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.
6. The appeal relates to two timber framed barns sitting side by side. There is a larger open fronted barn which sits on a concrete slab. The gable and rear walls consist of horizontal timber boarding to the lower half with vertical timber boarding above. The smaller of the two barns is also clad in horizontal timber boarding. There is a mono-pitch roof to the larger barn and a shallow pitched roof to the small barn. Both roofs are covered in corrugated metal cladding. Internally the larger building is open, and I saw during my site visit that it was used for the storage of hay and other materials. The smaller barn has two large openings to the front elevation.
 7. I have not been provided with any structural information with regards to the structural integrity of the existing buildings nor have I any detailed information on the scope of works involved in facilitating the conversion. The wall materials stated on the submitted drawing are "*stone plinth walling with timber boarding*" however, the drawing itself only shows one material and does not differentiate between stone or timber boarding. Therefore, it is not possible to determine how much (if any) of the existing wall material would be retained.
 8. Nonetheless, in order to facilitate the change of use proposed including the insertion of several structural openings for windows and glazed doors, I consider that the building would need to be stripped back to what would essentially be a skeletal form. That being a timber frame. Even if I were to assume that the upper part of the timber boarding was to remain, it forms contextually a relatively small percentage of the building. In effect and acknowledging that the entire front elevation would be new build, there would be more new wall than there is existing. This would be exacerbated by the proposal to introduce an entirely new powder coated roof covering.
 9. I acknowledge that the nature of the works that would be undertaken to the building are listed in the PPG and Class Q as being permitted and that there is provision within Class Q for the external appearance of the building to change. However, it is a matter of fact and degree as to whether if all that is permitted is carried out, it would amount to more than would be acceptable or reasonably necessary.
 10. In this case, it is the amount and scale of new building work when taken together which tips the balance between whether the proposal constitutes a rebuild rather than a conversion. I consider that the eventual building would be more akin to a new dwelling that happens to incorporate minor elements of a previous structure than an existing building that has been adapted in order to be used as a dwelling, as is the intention of Class Q.
 11. The appellant has drawn my attention to an allowed appeal claiming that the circumstances are similar to those before me. I am also reminded of the Hibbitt case¹ in the submissions from the Council. I cannot say conclusively that the schemes in either of those cases were the same as the one before me and I must determine this appeal on its own merits. However, the findings set out in Hibbitt are that the difference between a conversion and a rebuild is a matter

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

of legitimate planning judgment as to where the line is drawn. Based on the evidence before me in this case, I have exercised such judgement.

12. Accordingly, I find that in this particular circumstance, it has not been demonstrated that the building could be converted in accordance with Schedule 2, Part 3, Class Q (agricultural buildings to dwelling houses) of the GPDO without significant new building operations beyond those specified at paragraph Q.1(i).
13. Article 3(5) of the GPDO states that permission granted by Schedule 2 of the GPDO does not apply if (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful. The Council asserts that the larger of the two appeal buildings has recently been altered without the benefit of planning permission and would not therefore benefit from the permitted development rights set out within Schedule 2.
14. I saw during my site visit that the larger of the two buildings was in very good condition with what appeared to be new roofing elements. Nonetheless, I have no substantive evidence from either party which would allow me to compare the building before and after any works. Therefore, I cannot be certain whether or not any works undertaken were mere repairs as suggested by the appellant or enlargements as claimed by the Council.
15. In any event, as set out above, I have determined that the proposal would not meet the limitations of with Schedule 2, Part 3, Class Q (agricultural buildings to dwelling houses) of the GPDO. Consequently, it does not benefit from deemed permission under Class Q.
16. Given my conclusion that the proposed change of use would not 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.

Conclusions

17. For the reasons set out above and taking into account all other matters, I conclude the appeal should be dismissed.

J Hunter

INSPECTOR