



Appeal Decision

Site Visit made on 23 November 2020

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2020

Appeal Ref: APP/X3540/W/20/3257046

Gatewood Farm, Lampard Brook, Framlingham, Woodbridge, IP13 9SB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Oliver Stearn against the decision of East Suffolk Council.
 - The application Ref DC/20/1343/PN3, dated 30 March 2020, was refused by notice dated 14 May 2020.
 - The development proposed is Prior Notification - Change of use from an agricultural building into a single residential dwelling (Class C3) under class Q permitted development rights.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of Q(a) 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 of the Use Classes Order, and Q(b) building operations reasonably necessary to convert the building.
3. Schedule 2, Part 3, Paragraph W of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) sets out the prior approval process. It states that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval.

Main Issue

4. The main issue in this case is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015, having particular regard to whether the building operations proposed are reasonably necessary for the building to function as a dwelling house.

Reasons

5. The GPDO states at paragraph Q.1(i) that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or external walls or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.
6. The Planning Practice Guidance (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. 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 use. It is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right.
7. The appeal relates to a metal framed agricultural building which is open along its front façade with corrugated sheeting on either side, some of which is held in place with timber side rails. The submitted structural inspection report notes that the current bracing system would allow more sway than would be recommended within a modern dwelling and therefore careful detailing would be required.
8. The proposal is to convert the building to a dwelling and this would involve the removal of the existing cladding and its replacement with timber cladding, with the infilling of the front wall which would add additional bracing to the frame. The existing structural frame would remain in place and provide the main load bearing element of the building. The existing roof would be replaced with a metal standing seam roof. Taking all these points together, these elements form a substantial part of the buildings façade and would result in only the skeletal frame of the building remaining. Very little of the existing building would be utilised which I consider goes beyond a conversion and what could be considered reasonably necessary for the building to function as a dwelling house.
9. The main parties have referred me to the Hibbitt judgement¹, which considers the interpretation of “reasonably necessary” in Class Q. In Hibbitt, it was held that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. It also provides a detailed assessment of the differences between conversion and re-building.
10. The judge in the Hibbitt case stated that there will be numerous instances where the starting point (the “agricultural building”) might be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such

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

magnitude that in practical reality what is being undertaken is a rebuild. It is a matter of judgment, for the decision maker, to establish in each case where the line is drawn, by considering the type and extent of the works proposed in terms of whether a proposal amounted to a conversion rather than a re-build.

11. Taken as a whole, I consider the existing building would not be able to function as a dwelling. I consider that the works outlined result in the substantial re-building of the pre-existing structure and cumulatively, the extent of the works required would extend beyond the building operations reasonably necessary to convert the building to residential use under Class Q.
12. In order to benefit from the permitted development rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must involve only building operations reasonably necessary to convert the building in accordance with the definition at Class Q(b) and paragraph Q.1(i). Based on the evidence before me, it has not been demonstrated that the required works would be limited to building operations reasonably necessary to convert the building, so as to be permitted development under Class Q.

Other Matters

European designated sites

13. The appeal site falls within a 'Zone of influence' identified by Natural England for likely significant effects to occur to a European designated site. Natural England has provided advice regarding the need to ensure that new residential development and any associated recreational disturbance impacts on European designated sites are compliant with the Habitats Regulations.
14. As the competent decision making authority, if I had been minded to allow the appeal it would have been necessary for me to establish whether the Regulation 77 process under the Conservation of Habitats and Species Regulations 2017 had been followed, and the pre-commencement condition imposed under Article 3(1) pursuant to Regulation 75 had been complied with. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.
15. It has been put to me that the development would result in an additional dwelling that would contribute to meeting the housing need of a local family. However, this matter does not alter my conclusion that the proposal is not permitted development.

Conclusion

16. Given my conclusion that the proposal would not be permitted under Schedule 2, Part 3, Class Q.1 of the GPDO, there is no need for me to consider the proposal against the conditions set out in Class Q.2(1). For these reasons and having regard to all matters raised, the appeal is dismissed.

G Pannell

INSPECTOR