

Appeal Decision

Site Visit made on 8 December 2020

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2020

Appeal Ref: APP/V3310/W/20/3254142

Manor Farm, New Road, Chapel Allerton, Axbridge BS26 2PQ

- 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 Roger Duckett against the decision of Sedgemoor District Council.
 - The application Ref 15/20/00004, dated 6 February 2020, was refused by notice dated 30 March 2020.
 - The development proposed is change of use of agricultural buildings to 5 No. dwelling houses and associated building operations.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form did not include a description of the proposed development, so I have used the one given on the appeal form.

Main Issue

3. The main issue is whether the proposed development would constitute permitted development in respect of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) and, if it would, then whether prior approval should be granted, under Paragraph Q.2, as to whether the location or siting of the buildings makes it otherwise impractical or undesirable for the buildings to change from agricultural use to a use falling within Class C3 (dwellinghouses).

Reasons

4. The appeal site comprises part of a range of buildings that lie on the western edge of Chapel Allerton, at the junction of New Road and Back Lane. Most of the buildings are in agricultural use, but one is used for commercial storage. Planning permission exists for the creation of a new vehicular access to the central courtyard serving the complex, which would involve the demolition of one of the buildings, described as a dutch barn in the appellant's statement. The proposed development relates to two portal framed buildings, referred to as Buildings A and B. Building A is a detached barn on the western side of the yard, whereas Building B lies to the east, and is attached to two other buildings, one of which is the commercial storage unit.

5. Class Q(a) 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), and, under Class Q(b), building operations reasonably necessary to convert the building for that purpose. This is subject to a number of situations where such development is not permitted, listed under Paragraph Q.1. Pertinent to this appeal are the requirements of Paragraph Q.1(i)
6. Paragraph Q.1(i) 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, 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 the permitted building operations.
7. The Planning Practice Guidance (PPG) provides advice on the interpretation of Class Q¹. It 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. 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. Both parties have also referred to the Hibbitt case², which 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.
9. Barn A is of steel portal frame construction, divided internally by cast concrete walls. It is partly enclosed by low perimeter walls of blockwork on the north and south elevations, with perforated steel cladding enclosing the remaining space to eaves level. The west elevation has blockwork walls to eaves height on its outer wings, with cast concrete panels in the central section. The gable above these walls comprises perforated sheeting and steel cladding. The east elevation is entirely open, apart from some high-level steel cladding. The roof is of fibre cement sheeting and there is a concrete floor.
10. The Structural Appraisal (the SA) submitted with the application says that the steel frame would provide structural support for the roof, and that the existing roof coverings could be retained. There is no substantive evidence that would lead me to a different conclusion. The SA also says that the blockwork and concrete wall sections would be re-rendered. However, the walls would need to be significantly increased in height to reach the eaves and gables of the roof. Furthermore, much of the external wall of the east elevation would be demolished to allow the insertion of six windows.
11. The SA also says that the external wall cladding will be reused or replaced, without specifying to what extent, or how it would be utilised. From what I saw, the cladding is all in poor condition, and most of it is perforated, to allow ventilation. It is not, therefore, suitable as a structural element of the

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

² Hibbitt v SSCLG [2016] EWHC 2853

- conversion. However, even if it was all reused, it is likely that it would first have to be removed to allow the blockwork walls to be raised to roof height, waterproofed and insulated.
12. Consequently, the extent of the existing building that would be retained *in situ*, to be converted, would be a skeletal form, limited to the steel frame, the roof covering, and the low block walls on three sides. The entire east elevation would be new build, and significant external construction works would be necessary to raise the low block walls on the other three sides to roof level.
 13. Although substantial works could fall under the scope of Class Q, the permitted development right does presuppose that the building is already suitable for conversion. The building would not be capable of functioning as a dwelling without substantial construction works to all four exterior walls. Even with the retention of the steel frame and roof, taken as a whole, the totality of the works would go beyond conversion, and that which would be reasonably necessary for the building to function as a dwelling. The works to Building A would not, therefore, comply with the requirements of Paragraph Q.1(i).
 14. Building B is also portal framed, but of more solid construction, being completely enclosed on all four sides. It has blockwork walls to a height of three or four metres to the west and east elevations. The south elevation is constructed of cast concrete panels at ground floor level, with metal cladding above. The north elevation is entirely composed of metal cladding, but it is imperforate, and in good condition.
 15. The SA confirms that the steel frame would continue to support the roof coverings, and that the blockwork walls and external cladding could be retained as part of the conversion. There is no cogent evidence that this could not be achieved, so, having regard to Hibbitt and the guidance in the PPG, the building is suitable for conversion to residential use. However, as part of the development, it is proposed to entirely demolish the lean-to building attached to its eastern side.
 16. Paragraph Q.1(i) only permits partial demolition that is reasonably necessary to carry out the building operations that are allowed by paragraph Q.1(i)(i), which are the installation or replacement of windows, doors, roofs, or exterior walls, water, drainage, electricity, gas or other services. The demolition proposed in this case would be total, rather than partial, and would facilitate car-parking and outdoor amenity, rather than any of the specific works set out in paragraph Q.1(i)(i). It would not, therefore, be permitted development. My attention has been drawn to another instance in the area, where extensive demolition was approved under a Part Q notification. I have limited evidence relating to that case, but in any event, it cannot alter the legislation that has led to my conclusion that the total demolition of the building would be outside the scope of permitted development.
 17. Both parties have provided examples of other Part Q cases to support their respective positions on the application of case law and PPG advice in relation to the appeal proposal. However, I have not found them to be directly comparable with the scheme before me. Consequently, I have dealt with the appeal on its own merits. For the reasons given above, I have concluded that the proposal would not be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

18. As I have concluded that the proposal is not permitted development, it does not now fall on me to assess whether the location or siting of the buildings makes it otherwise impractical or undesirable for the buildings to change from agricultural use to a use falling within Class C3 (dwellinghouses).

Conclusion

19. For the reasons given above, I conclude that the appeal should be dismissed.

Nick Davies

INSPECTOR