



Appeal Decision

Site visit made on 16 November 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2020

Appeal Ref: APP/W4705/W/20/3258181

Westfield Farm, Tim Lane, Oakworth, Keighley BD22 7SA

- 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 and Mrs D & C Pickles against the decision of City of Bradford Metropolitan District Council.
 - The application Ref 20/01220/PAR, dated 26 March 2020, was refused by notice dated 21 May 2020.
 - The development proposed is change of use of agricultural building and land to residential use (C3) - two dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Class Q of schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to use falling within Class C3 (dwellinghouses) ("Class Q(a) development"). Additionally, Class Q permits building operations reasonably necessary to convert the building to a Class C3 use ("Class Q(b) development").
3. Paragraph Q.1 sets out specific circumstances under which development is not permitted with paragraph Q.1 (i) specifying that this includes building operations other than the installation or replacement of windows, doors, roofs, exterior walls or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse. Paragraph Q.2 sets out conditions applying variously to Q(a) and Q(b) development.
4. The Council, in determining the application, seems to have been satisfied that, the proposal would meet the permitted development criteria specified by paragraph Q1 (a) to Q1 (h) with reason for refusal set out within the decision notice only referring to the failure of the proposal to comply with paragraph Q1 (i). Additionally, in deciding that the proposal did not constitute permitted development the Council did not assess it against the prior approval criteria contained within the condition set out in Paragraph Q.2 (1) of the GPDO.

Main Issues

5. In light of the above, the main issues are:

- whether the proposed development would constitute permitted development pursuant to Class Q of Part 3 of Schedule 2 to the GPDO, having particular regard to whether it would comprise building operations for the installation or replacement of windows, doors, roofs, exterior walls or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse; and
- if so, whether prior approval would be required in accordance with the condition set out in Paragraph Q.2 (1) of the GPDO.

Reasons

Whether permitted development

1. Class Q permits development consisting of (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) or (b) development referred to in (a) together with building operations reasonably necessary to convert the building referred to in (a) to a Class C3 (dwellinghouse) use. The appeal relates to development under both Q(a) and Q(b), so that the proposal relates to the change of use to residential as well as associated facilitating works.
2. 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).
3. Paragraph 105 of the Planning Practice Guidance¹ (PPG) provides further clarification. The guidance states 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 into 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 PD right. The PPG also acknowledges that internal works are generally not development and that for the building to function as a dwelling it may be appropriate to carry out internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floorspace permitted, or internal walls, which are not prohibited by Class Q.
4. The appeal property comprises an agricultural building that is set within the slope of the appeal site with a two-level access/driveway meaning that from the front it looks like a single storey building and from the rear it resembles a two-storey building. This also means that the building has two existing floor levels, a lower floor and upper floor. The lower portion of the building has external block walls with the upper portion being externally clad in timber panelling. There are several openings in the timber panelling on the upper

¹ Reference ID: 13-105-20180615

- portion with several smaller openings and one larger opening being present on the lower portion.
5. The proposal is to convert the existing building into two three bedroomed dwellings by: replacing the corrugated metal roof with a zinc one; removing the external timber boarding and replacing it with new stone external walls built on top of the existing blockwork; installing new window and doors within the new external walls on both the front and rear elevations and blocking up the existing large opening.
 6. The appellant has submitted a Structural Report dated 12 June 2020 (SR) which updates a similar report which was submitted as part of a previous application for a similar scheme in 2015. The SR concludes that the conversion of the barn could be undertaken without the necessity to demolish the structure below upper floor level. It also makes several recommendations to ensure that any proposed works to convert the building to a dwelling could be undertaken without major structural or demolition works being required below the upper floor level.
 7. I acknowledge that the existing blockwork up to upper floor level, the existing internal concrete hardstandings and the existing groundbearing concrete slab would be sufficient to structurally support the proposal. However, the ability of the existing foundation to bear the load of the proposed development is not, in and of itself, sufficient to meet the requirements of Class Q.
 8. I also note that Class Q allows for building operations altering external appearance, as well as internal alterations. However, in order to benefit from the PD rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must only involve building operations reasonably necessary to convert the building in accordance with the definition at Class Q(b) and paragraph Q.1(i).
 9. In this instance, as the SR confirms, the proposal would essentially demolish the existing structure of the building above the upper floor level. As a result, I consider that an extensive amount of work would be required to facilitate the residential units, including the replacement of the roof, and substantial elements of the exterior timber panelling above the upper floor level. This would leave very little of the existing building structures remaining. In this respect, I find that the amount of building work required for the building to function as dwellings is such that the proposal only partially relies upon the existing building. Having regard to the High Court judgement in the *Hibbitt* case² and the associated appeal decision³, which are referred to in Paragraph 105 of the PPG, these works would exceed what could reasonably be described as conversion and would be so extensive as to comprise substantial rebuilding. This goes beyond what is reasonably necessary for the conversion of the building into residential use.
 10. Consequently, based on the evidence before me and my own observations of the existing building, 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.

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

³ APP/P3040/W/16/3142052 - Dismissed - 19 May 2016

11. For the above reasons, I therefore conclude that, based on the evidence before me, the proposed use of the building would not satisfy the requirements of Schedule 2, Part 3, Class Q of the GPDO, having regard to the associated guidance within the PPG, and therefore is not development permitted by it.

Whether prior approval required

12. Given my conclusion that the proposal 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.

Other Matter

13. The appeal property is located within the Green Belt. However, given the main issues relevant to this case I have not considered this matter further.

Conclusion

14. For the reasons given and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Consequently, it is development for which an application for planning permission would be required. This would be a matter for the local planning authority to consider in the first instance and cannot be addressed through prior approval provisions set out under paragraph Q.2(1) of the GPDO. The appeal is, therefore, dismissed.

C Coyne

INSPECTOR