



Appeal Decision

Site visit made on 8 December 2020

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2020

Appeal Ref: APP/P3040/W/20/3259439

Agricultural barn, Back Lane, Willoughby on the Wolds LE12 6SP

- 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 S Carr against the decision of Rushcliffe Borough Council.
 - The application Ref 20/01028/PAQ, dated 6 May 2020, was refused by notice dated 1 July 2020.
 - The development proposed is a change of use of an existing agricultural building to a dwellinghouse (C3).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs S Carr against Rushcliffe Borough Council. This application is the subject of a separate Decision.

Background and Main Issue

3. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (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 of the Use Classes Order 1987 (as amended), and the building operations reasonably necessary to convert the building.
4. Schedule 2, Part 3, Section W of the 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.
5. It was on this basis that the Council refused to grant prior approval for the scheme under Schedule 2, Part 3, Class Q of the GPDO as it determined that works to convert the building had commenced before the application for prior notification was submitted, contrary to condition Q2(1).

6. Pursuant to the above, the main issue is whether or not the works undertaken constitute a commencement of the conversion of the building to a dwellinghouse.

Reasons

7. The site is a small parcel of fenced land within open pasture set between Back Lane and the southern edge of the settlement of Willoughby-on-the-Wolds. The site includes a steel framed building clad in corrugated metal sheets with a corrugated fibre roof covering incorporating translucent panels. The building envelope appears in reasonable condition. Some of the ventilation gaps below the eaves on one side of the building and above doorways within the gable ends have been either closed by fixed boards or meshing.
8. At the time of my site inspection it was evident that fresh build works had taken place within the building to provide a new floor. Upon it, new internal blockwork walls had been constructed on all four sides to about the height of the gable doors and the outer cladding on the vented side of the building. Gaps remain within the walls to provide access from either end of the building. Along the centreline, a low retaining wall formed of two lines of blockwork with a cavity between, mark the line of a step in the internal floor level. According to the appellants' statement these works were underway in August 2019 and completed sometime before early March 2020 when a structural re-survey of the building was undertaken.
9. The appellants describe the works as the maintenance and improvement of the building and highlight that, as they are internal works, did not require planning permission. However, the advice in the National Planning Practice Guidance (PPG), highlights that other works, specifically those falling outside of the definition of 'development', might be required to facilitate the conversion of a building from an agricultural use to a residential one. Article 2 of the GDPO also sets out various definitions. It is relevant to the case that there is no definition of 'conversion'. There is, however, a definition of 'building' which, for present purposes: 'includes any structure or erection and includes any part of the building'. I therefore find that the requirement for planning permission, or not, is not necessarily a determinative matter under the assessment of Class Q proposals.
10. Furthermore, there is nothing within Class Q to limit the scope of works that constitute a commencement of the act of conversion to those described in S56 of the Act. As established in *Hibbitt v SSCLG* [2016] EWHC 2853, the concept of 'conversion' must be understood in its specific planning context.
11. The floor, described as a substantial reinforced concrete slab by the appellants, is set within the structural envelope of the original building but appears independent to it as no underpinning of the steel frame structure was evident, or suggested within the appellants' structural report. The blockwork walls, which are finished to a high standard, are set on the edge of the new slab to stand a short distance off the outer cladding and stanchions of the structure. Despite being tied by metal strapping to the original framework, they appear as substantial building elements in their own right. Although the floor slab could be described as maintenance as it overlies the original floor, this could not be said of the walls, which are new elements of the building. If intended as 'improvements' for the purposes of agriculture, there is limited evidence to

clarify on what basis this has been achieved through the formation of a substantial split-level slab and walls set inside the line of the structure.

12. In consideration of the planning context and matters of fact and degree, I find that the works that have been carried out demonstrate a number of anomalies to the aim of facilitating an agricultural use of the building. The alignment of the internal walls, which unusually incorporate a damp proof course, would cause a loss of some operational and/or storage space within the building. As some lengths are built behind hinged gates within the front gable, accessibility would be reduced. Furthermore, a line of low blockwork set across each of the remaining openings would also frustrate accessibility, particularly for wheeled vehicles.
13. Given the reported structural advantages of an external wall considered in an application made under Class Q in 2017, there is little reasoning provided as to the benefits of introducing new walls inside the line of the existing structure. This approach contrasts with typical modern agricultural buildings which incorporate masonry elements between stanchions, an approach that could provide the identified benefit of lateral constraint of the existing structure. Moreover, the appellants have failed to explain at all, the necessity for the walls given that the outer condition of the building appears sound and sufficiently weatherproof for agricultural storage and operational purposes.
14. The cavity construction of the central retaining wall, which roughly coincides with a proposed internal wall, marks an internal change in the floor level. According to the evidence before me the floor in this location was previously on a single level. Although access remains from both ends of the building, the creation of the split floor level would restrict storage options, albeit to a small degree. However, it would substantially prevent movement of vehicles through the building. Likewise, it would frustrate any movement of animals, feed or other storage from one side of the building to the other. Accordingly, I find the appellants stated improvement to functionality is unclear and unqualified.
15. In the particular circumstances of the case, those anomalies, when taken with the proposal to utilise the fresh build to provide the purposeful structure on which to mount the proposed external cladding, and, in the context of the planning history and timing of the works in the run up to the Class Q application, indicate that the works recently carried out relate closer to a potential residential use of the building than any intended for agricultural improvement or maintenance.
16. As works implicit in the conversion of the building, I find that, on the balance of evidence, the circumstances observed on the ground and having regard to the building as a whole, the conversion of the building has commenced.
17. In support of the appeal, the appellants points to the fact that, aside from the main entrance gaps, none of the proposed openings are present within the walls. However, any subsequent works in their formation would be insubstantial in comparison to the operations of forming the masonry walls and their foundations in the first instance. I am therefore not persuaded that this circumstance outweighs the reasons for my finding.
18. The principle established in *Winters v. Secretary of State for Communities and Local Government* [2016] EWHC 3354, confirmed that the prior approval mechanism in the GDPO was concerned only with prior approval for proposed

development, not a development that was partially or wholly completed. For the reasons above, I find that, as a matter of planning judgement, although the works in this case are not 'development' within the meaning of the Act or those specified under Class Q, they are works involved in the conversion of the building. They are works of a type acknowledged in the PPG and therefore constitute a commencement of the works implicit in the proposed change of use. As such, an application under Class Q is no longer open to the appellants and planning permission by another mechanism would be necessary for the proposed change of use.

Other Matters

19. I have noted the third party representations. However, in the light of my findings on the main issues of the appeal, my decision does not turn on these matters.

Conclusion

20. For the above reasons, the appeal should be dismissed.

R Hitchcock

INSPECTOR