
Appeal Decisions

Site visit made on 10 November 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2021

Appeal A Ref: APP/J3720/W/20/3254462

Fell Mill Farm, Fell Mill Lane, Honington, Shipton On Stour CV36 5AD

- 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.
 - The appeal is made by Morley Trust against the decision of Stratford on Avon District Council.
 - The application Ref 20/00919/COUQ, dated 31 March 2020, was refused by notice dated 27 May 2020.
 - The development proposed is change of use of an agricultural building (Barn 1) into three residential dwellings (C3).
-

Appeal B Ref: APP/J3720/W/20/3254463

Fell Mill Farm, Fell Mill Lane, Honington, Shipton On Stour CV36 5AD

- 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.
 - The appeal is made by Morley Trust against the decision of Stratford on Avon District Council.
 - The application Ref 20/00947/COUQ, dated 31 March 2020, was refused by notice dated 27 May 2020.
 - The development proposed is change of use of an agricultural building (Barn 2) into two residential dwellings (C3).
-

Decision

1. Appeal A is dismissed, and Appeal B is dismissed.

Preliminary Matters

2. For precision and clarity, I have amended the descriptions of development to more accurately reflect the proposed works.
3. In both appeals, the Council's reasons for refusal identify that they consider that both proposals fail to meet the requirements relating to the building operations (including demolition works) that are reasonably necessary to change the use of the buildings. From the evidence before me, it is not disputed that either of the appeals fail to satisfy the other requirements as set out under paragraph Q.1. I therefore consider the appeals on this basis.

Main Issue

4. The main issue in both appeals is whether the proposals constitute permitted development under Schedule 2, Part 3, Class Q.1 of the Town and Country

Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO).

Reasons

5. 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 Schedule to the Use Classes Order and any building operations reasonably necessary to convert the building.
6. 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.
7. Paragraph 105 of the Planning Practice Guidance (PPG) provides further clarification. The guidance states that it is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore, it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.
8. In terms of Appeal A, the proposal would involve the installation of a new exterior wall on one elevation, the replacement of timber cladding above retained blockwork walling on the remaining walls and the replacement of the existing roof cladding. The floor area of the building would also be reduced through the demolition of a complete bay, which the appellant has submitted equates to 28.3% of the total building.
9. In terms of Appeal B, the works would involve the installation of a new exterior wall in one elevation, replacement metal cladding on three elevations and the replacement of the existing roof cladding. Part of the building would also be demolished, which the appellant has identified to be around 32% of the total building.
10. The Structural Report and Addendum submitted in support of both appeal applications concludes that, in the case of both buildings, the existing structures are adequate to carry the loadings required for conversion without any structural modifications. No evidence has been put forward by the Council to dispute this and, from my own inspection of the buildings, I consider this conclusion to be reasonable.
11. Whilst the evidence indicates that both buildings can be converted, the PPG identifies that, whilst building works are allowed, it assumes that the building in question is capable of functioning as a dwelling and that the building operations to be undertaken are reasonably necessary to convert the building. Should it be considered that the proposed works go beyond this, then they would not represent permitted development under Class Q.
12. In both appeals, it is intended that the existing blockwork around the lower part of the buildings would be retained, however all existing metal cladding, including that on the roof would be removed and replaced. As a result, for both

buildings, all exterior walls would be rebuilt to a substantial degree. New external walls would also be provided following the demolition of the identified sections of the buildings. Furthermore, a new, raised concrete floor would be laid to serve the building subject to Appeal A. Moreover, substantial parts of both buildings would be lost to demolition.

13. In both appeals, the works would involve a level of new construction that would be significant and, as a consequence, only a small amount of the original buildings would remain. Whilst criterion Q.1(i) does allow for the creation of new exterior walls, I consider that in both Appeal A and Appeal B, the amount and extent of building operations proposed, in both instances, would go beyond what is reasonably necessary for the buildings to function as dwelling houses and, in both cases, would amount to rebuilding.
14. For the above reasons I conclude that the proposal would not represent permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Other Matters

15. A number of prior approval applications relating to Class Q of the GPDO, along with a number of appeal decisions, have been drawn to my attention by both the appellant and the Council. The decisions relate to the interpretation of Class Q, paragraph Q.1 (i) and the PPG. I have taken the decisions into account and, in most cases there are some parallels with the proposals before me. Nevertheless, there are differences in terms of the timing of the decisions in relation to the Hibbitt judgement, the individual circumstances of the agricultural buildings and the amount of conversion works required. I have therefore reached my own conclusion on the appeal proposals on the basis of the evidence before me.

Conclusion

16. For the reasons set out above, and having considered all the matters, both Appeal A and Appeal B are dismissed.

Adrian Hunter

INSPECTOR