



Appeal Decision

Site visit made on 2 February 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 February 2021

Appeal Ref: APP/A2470/W/20/3262931

The Barn, Fairchilds Lodge, Lyddington Road, Caldecott, Rutland LE16 8TE

- 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 GPDO)
 - The appeal is made by Mrs Louise Brown against the decision of Rutland Council.
 - The application Ref 2020/0843/PAD, dated 15 July 2020, was refused by notice dated 30 September 2020.
 - The development proposed is Prior approval for proposed change of use of an Agricultural building to 3 no. dwellinghouses.
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Decision

1. The appeal is allowed and prior approval is granted for proposed change of use of an agricultural building to 3 no. dwellinghouses at The Barn, Fairchilds Lodge, Lyddington Road, Caldecott, Rutland LE16 8TE in accordance with the terms of the application Ref 2020/0843/PAD, dated 15 July 2020, subject to the conditions on the attached schedule :-

Procedural Matter

2. For the description of development, I have used the description on the Council's decision notice, which was also used by the appellant on the submitted appeal form. I am therefore satisfied that this course of action does not prejudice the parties.

Main Issue

3. The main issue is whether the proposed building operations fall within the scope of a conversion, and if so, whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Reason

4. Paragraph Q.1(i) states that development is not permitted by Class Q if the development under Class Q(b) would consist of building operations other than the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations.

5. The Planning Practice Guidance (the PPG) explains that it is not the intention of the permitted development rights 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. Whether the proposal constitutes a conversion or rebuild is a matter of fact and degree to be determined on the circumstances of the case.
6. The existing barn is a five-bay portal framed structure, measuring approximately 23m x 24m with metal stanchions and roof supports. The roof is sheet cladding, and the walls are largely constructed of blockwork and brick at lower level on two sides, with timber above. Two sides of the building have openings, which have been enclosed by metal gates, which I understand kept animals enclosed within the building. A concrete floor slab covers the floor of the building.
7. The evidence in front of me states that four bays of the portal will be used to form the dwellinghouses, with the fifth bay forming a front canopy. The four bays would form two smaller single floor dwellings to the front section, and a larger dwelling with some first-floor accommodation would utilise the back section. The steel frame will be retained, as will the existing walls and cladding on the sides.
8. The walls of the building are to be retained, and the elevations re-clad with a mixture of stone and timber cladding, with glazing inserted. The roof would be replaced with a seam cladded roof. A structural report has been supplied that states the steel frame can accommodate the additional loading from the proposed works.
9. In my view, the structural engineer is perfectly placed, given the role and qualifications, to advise on the issue of whether new structural elements would be required. I have therefore given his professional opinions significant weight. In the absence of any convincing evidence to the contrary and in light of the comments of the structural engineer, I am satisfied that the existing steel frame is capable of taking the loading associated with the new external works.
10. In this case, the extent of the proposed works would not be so substantial so as to constitute a rebuild rather than a conversion. In coming to that view, I have been mindful of the High Court Judgement in the case of *Hibbitt v SSCLG* (2016) EWHC (Admin).
11. Both parties have referred me to the Hibbitt judgement, 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 rebuilding.
12. Both parties have also supplied me with appeal decisions where Hibbitt has been referenced in order to support their position. I have taken these into account during my deliberations.

13. I have noted that the Council, as part of their statement, consider that the proposed works constitute a rebuild, rather than a conversion. I am satisfied that taken together, these works do not amount to a rebuild, but can be considered as reasonably necessary for the building to function as dwellinghouses, falling squarely within the parameters of paragraph Q.1 (i). This is not determinative since there may be circumstances where the sum total of works amounts to a rebuild, thus taking the proposal outside the scope of Class Q. However, in this particular case sufficient structure would be retained to satisfy me that the proposal should qualify as a conversion. I accept that the work required would be extensive, but it does not necessarily follow that the building does not benefit from permitted development rights.
14. The Council is satisfied that the proposal complies with the other restrictions and limitations specified in Paragraph Q.1. Based on the evidence provided, I have no reason to take a different view.
15. In conclusion, taking into account that existing structural frame would remain in place and provide the main load bearing element of the building, the alterations proposed do not go beyond those necessary for the building to function as a dwelling and the replacement of the existing walls by recladding are works which are specifically covered by the GPDO.
16. I therefore conclude that 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, as amended.

Conditions

17. Paragraph Q.2(3) stipulates that development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. I have also imposed a condition requiring the development to be carried out in accordance with the approved plans, in the interests of certainty.

Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed.

SCHEDULE OF CONDITIONS

- 1) The development hereby approved shall be completed within a period of three years starting from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans :-
 - Site Location Plan
 - Existing Ground Floor Plan (5001-000)
 - Existing Ground Floor 1:100 (5001-003)
 - Existing Ground Floor 1:200 (5001-004)
 - Existing Elevations 1 (5001-005)
 - Existing Elevations 2 (5001-006)
 - Existing Cross Section / Street Scene (5001-007)
 - Proposed Ground Floor (5001-008P1)
 - Proposed First Floor (5001-009P0)
 - Proposed Elevations 1 (5001-011P0)
 - Proposed Elevations 2 (5001-012P0)
 - Plan Identifying Residential Curtilage (5001-0014)