



Appeal Decision

Site visit made on 2 & 5 February 2021

by M Shrigley BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2021

Appeal Ref: APP/V0510/W/20/3259143

Meadlands Farm and Cottage, Meadland Main Drive, The Gault CB6 2BJ

- 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 RA Latta Farms against the decision of East Cambridgeshire District Council.
 - The application Ref 19/01535/ARN, dated 26 November 2019, was refused by notice dated 10 July 2020.
 - The development proposed is for a change of use of an agricultural building to form two dwellinghouses (c3) and demolition of a shed.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I note that the address stated on the planning application and appeal form states Meadland Main 'Drive'. The submitted site location plan refers to Meadland Main 'Drove' and more accurately describes the location.
3. This appeal relates to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Class Q (a) 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 3 (dwellinghouses) of the Schedule to the Use Classes Order. Class Q (b) permits development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses).
4. The Council considers that the proposal would exceed the limitations relating to Permitted Development under Class Q inclusive of Part Q.1 (i). Any proposal which is not Permitted Development cannot be subject to the prior approval process as it would need full planning permission. The reasons for refusal of the Council also include that it was unable to fully assess the effect of the proposal in terms of contamination risks under Condition Q.2—(1) (c) of Class Q and subsequently Part 3, section W (3) of the GPDO.

Main Issues

5. The main issues are: (i) whether the proposal would fall within the limitations for it to be Permitted Development under Schedule 2, Part 3, Class Q of the

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the building to be converted and used as a dwelling; and (ii) whether contamination risks can be successfully dealt with as required by Condition Q.2—(1), (c).

Reasons

Whether or not the works would amount to a conversion

6. Paragraph 105 of the Planning Practice Guidance states that the Class Q right assumes that the agricultural building is capable of conversion to a dwelling. It is therefore not the intention of Class Q to allow rebuilding work which would go beyond those 'reasonably necessary'.
7. My attention has been drawn to an appeal referring to the Hibbitt Case¹ which relates to the difference between conversions and rebuilding dealt with under Class Q. This is important because if the appeal scheme does not amount to a conversion it would fail to be development permitted under Class Q (b). The case suggests that an agricultural building may be so skeletal and minimalist that the works needed to alter it to be used as a dwelling would be of such a magnitude that it would be tantamount to a new build or rebuild.
8. At my site visit I could see that the appeal building is a precast concrete portal framed barn with a pitched roof. It is partially open sided to the rear and flank elevations. The appeal plans are consistent with what I observed.
9. Internally, the roof sits on concrete purlins spanning between main portal frame structural uprights. The parts of the barn with walls are constructed from a mixture of brick and corrugated concrete cladding panels. No floor structure is present within the three open bays to the south. A concrete ground bearing slab is evident within the enclosed northern half of the building. The slab is noted to be in poor condition with many fractures and cracks forming.
10. The appellant's submitted structural survey concludes that the portal structural framing could be retained and utilised to support a new roof covering. This being the stated intention. However, it is not detailed how this would be achieved, or if the framing would be left in situ. It also indicates that a new slab for the floor is required supported by piling and that the concrete pad foundations of the building are situated on land with a high clay and peat content.
11. The columns and floor slab are evidenced to exhibit signs of previous movement especially on the east side of the building. This is suggested to have occurred because of the building frames weight on soft peat soil. The structural survey confirms that for the works to the barn to proceed it will be necessary to ensure that all previous movement has ceased. To achieve this, it would be necessary to install a new floor with pile foundations in line with the recommendations of the survey.
12. These factors suggest that substantial structural works would be required to retain and reuse the framing. I have carefully considered the findings of the survey, but I have considerable doubt that the structural integrity of the

¹ Hibbitt, and Another v Secretary of State for Communities and Local Government, and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

building would withstand a residential conversion without the building works required falling outside the scope of ordinary conversion.

13. It is apparent that the alterations proposed are likely to involve a significant overhaul of the existing fabric of the building. Including stripping back the existing roof sheeting as well as providing new replacement walls, which have been subject to significant cracking, and the provision of adequate insulation. The extent of the works needed to alter the building for dwelling house use would result in new external facings to all its elevations.
14. The question of whether the existing barn is capable of conversion rather than constituting a new or rebuild lies at the heart of the matters contested by parties. Based on the evidence before me I am unconvinced even the portal skeleton of the barn would be left completely in situ. The existing fabric of the building inclusive of the floor, roof and walls are inadequate for dwelling house use. The works in totality would be more akin to a new or rebuild rather than a conversion. The proposal would therefore involve operational development which goes beyond that which is Permitted Development and there is no substantive evidence before me to conclude otherwise.
15. Accordingly, I find that the proposal fails on point Q (b) as well as Part Q.1 (i). The works would go beyond that of conversion and would therefore not be Permitted Development.

Contamination risks

16. A Phase I contamination report has been received as part of the appellant's case. As specified by the GPDO I have had regard to: the National Planning Policy Framework (the Framework) in relation to the risks on the site and as a result of the proposed change of use, taking into account any proposed mitigation; Part 2A of the Environmental Protection Act 1990(4); and the Contaminated Land Statutory Guidance issued by the Secretary of State for the Environment, Food and Rural Affairs in April 2012.
17. I acknowledge that there is scope within the GPDO to attach planning conditions reasonably related to the contamination risk issue contended. The advice of the Council's Environmental Health Officer supports a conditional approach. But there is no substantive evidence of the extent of contamination, what mitigation would be required, or if it is achievable in this location. I am therefore not convinced based on the information before me that a conditional approach would be appropriate factoring risks to human health and relevant receptors.
18. Therefore, I uphold the reason not to allow prior approval on the basis of contamination risks not being fully known and satisfied in accordance with the requirements of Class Q.2 (1) (c) and the provisions of paragraph W of the GPDO.

Conclusion

19. For the reasons given above the appeal is dismissed.

Matthew Shrigley

INSPECTOR

