



Appeal Decisions

Site visit made on 23 February 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2021

Appeal A, Ref: APP/U1105/W/20/3261197

Barn at Orchard Farm, Orchard Farm, Plymtree EX15 2LW

- 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 (GPDO).
 - The appeal is made by Terry Grandfield against the decision of East Devon District Council.
 - The application Ref 20/0668/PDQ, dated 19 March 2020, was refused by notice dated 6 May 2020.
 - The development proposed is change of use of existing agricultural barn to 4 no. smaller dwelling houses (use class C3) and associated operational development under Class Q(a) and (b).
-

Appeal B, Ref: APP/U1105/W/20/3261200

Barn at Orchard Farm, Orchard Farm, Plymtree EX15 2LW

- 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 (GPDO).
 - The appeal is made by Terry Grandfield against the decision of East Devon District Council.
 - The application Ref 20/1624/PDQ, dated 30 July 2020, was refused by notice dated 11 September 2020.
 - The development proposed is change of use of existing agricultural barn to 4 no. smaller dwelling houses (use class C3) and associated operational development under Class Q(a) and (b).
-

Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Main Issues

3. The main issue, common to both appeals, is whether the proposals under Class Q.1.(i) would consist of building operations that exceed those permitted as reasonably necessary for the building to function as dwellinghouses.

Reasons

4. 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.
5. Paragraph Q.1.(i)(i) places restrictions on the reasonably necessary building operations which can be undertaken. It states that development is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs, or 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.1.(i)(ii) also permits partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
 6. The Planning Practice Guidance (PPG)¹ advises 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 to residential use. It is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right. Whether or not the proposed works go beyond the scope of a conversion will require an element of planning judgement.
 7. Both appeals A and B involve the construction of two entire walls (elevations A-A and B-B). A large proportion of the south-east elevation would also be entirely new wall as there is very little in between the steels along this elevation at present. Approximately two-thirds of the lower north-east elevation is currently formed from metal doors, for one of which the opening extends into the upper sheet-clad sections of the building. The plans show this as wall construction to match the lower wall around the rest of the building and so also requires new sections of wall.
 8. Along the north-west elevation, there is a large gap between the top of the wall and the eaves of the building which is presently only covered by wire mesh. This section would need to be infilled. In addition, the vertical timber boarding which amounts to around half of this elevation, contains small gaps between each timber, meaning that the elevation is less than a substantial entire wall.
 9. The proposals would also result in the creation of new wall lining and insulation throughout the whole building where utilising existing sections of outer wall. It would also necessitate the creation of each and every new opening for windows and doors. Considered in the round, whilst a reasonably useful agricultural building currently exists, there is too little to be suitable for the purposes of a conversion and what exists would need to be substantially supplemented with new elements to form dwellings.
 10. Furthermore, the gap between the new dwellings would be formed from the demolition of a middle section of the existing building of around a third of the building's existing floorspace. Appeal A would see a greater extent of demolition, resulting in the complete detachment of the resulting two buildings and a large intervening gap. Appeal B would result in a smaller degree of detachment, but with some sections of roof retained to provide covered courtyards facing towards each other between the new elevations.
 11. The appellant indicates that the partial demolition proposed, particularly in Appeal B, comprises the removal of a single bay of the existing barn to create

¹ Paragraph: 105 Reference ID: 13-105-20180615

the separation and to provide covered 'ways' as protection from the elements. There is no necessity for dwellings to be separate or to have covered external areas, whereas there is an obvious necessity for them to have four walls, a roof, doors and windows. The demolition does not appear reasonably necessary to enable the carrying out of the building operations. Rather, it appears to be dictated by the upper floorspace limit for Class Q dwellings on the agricultural unit and the desirability of a degree of detachment. In this context, I consider that the formation of four semi-detached buildings from a single building would be far more transformative than a true conversion scheme and would include superfluous demolition and building operations.

12. I have been referred to the Hibbitt² High Court judgement and whilst I accept that there are some differences between it and the appeal proposals, I do not consider that the Council has misdirected itself in this regard. The judgement indicates that some conversions could involve substantial works, but that presupposes that those works comprise 'conversion'. In this instance, I have also found that the works would amount to more than a conversion.
13. I note that the appellant has chosen not to provide a structural report given the changes to the PPG regarding structural loadings. However, the concept of a conversion means that the building must be capable of being converted. In my view, structural integrity is a prerequisite of convertibility. It is not, however, the sole determiner as to whether the totality of the works comprise a conversion. Many of the appeal decisions³ provided by the appellant focus more narrowly on the structural stability of the retained components and for this reason, I do not consider them to be sufficiently compelling to alter my views on the proposals. Similarly, I am not bound by decisions previously made by the Council in respect of other buildings on the site that were allegedly of a similar construction or where demolition was considered reasonably necessary.
14. I share some of the views expressed about the amount of work required to solidify the ventilated timber clad elements of the walls as in the case at Whipcott Heights⁴. Whilst the appellant indicates that the ventilated cladding is only a part of the construction of the building, this point downplays the fact that it actually accounts for approximately half of the largest elevation of the building which is capable of being retained. With the exception of the south-west elevation, the other elevations are largely being constructed anew or have even more sizeable gaps which need to be infilled.
15. For the above reasons, I conclude that the works and demolition involved in both appeals A and B exceed those reasonably necessary to convert the building. Accordingly, for the reasons set out above, the proposals do not meet the criteria set out in relation to Class Q.1(i) or (ii) and are not permitted development, but ones for which applications for planning permission are required.
16. Accordingly, I conclude that the appeals should both be dismissed.

Hollie Nicholls
INSPECTOR

² Hibbitt and another v SSCLG and another [2016] EWHC 2853 (Admin)

³ Appeal refs: APP/L3245/W/18/3216271, APP/R0660/X/17/3175487 and APP/P3040/W/16/3165076

⁴ Appeal ref: APP/Y1138/W/19/3231918