



Appeal Decision

Site visit made on 8 March 2021

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 17 March 2021

Appeal Ref: APP/Z2505/W/20/3260596

Buildings to North of Swineshead, Boston Road, Swineshead

Easting 523772, Northing 341797

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015.
 - The appeal is made by Baddow Properties Ltd against the decision of Boston Borough Council.
 - The application Ref: B/20/0082, dated 24 February 2020, was refused by notice dated 15 May 2020.
 - The development proposed is prior notification for conversion of Agricultural Barn to form 1 no. Residential Dwelling at Buildings at Boston Road, Swineshead.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended (GPDO), in which prior approval for the change of use of an agricultural building to one dwelling was sought.

Main Issue

3. The main issue is whether the proposal would be permitted development under Class Q, subject to the prior approval of certain matters.

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 Order¹ and any building operations reasonably necessary to convert the building.
5. Paragraph Q(1)(i) places restrictions on the building operations which can be undertaken and in particular, 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 operations.

¹ SI 1987/764 The Town and Country Planning (Use Classes) Order 1987 (as amended).

6. Paragraph 105 of the Planning Practice Guidance²(PPG) provides further clarification. It states 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 follows that it is only in instances where the existing building is structurally strong enough to take the loading which comes with the external works to provide for the residential use that the building would be considered to have the permitted development right.
7. The existing agricultural building consists of two separate steel frame structures that are clad in timber and metal. They are largely enclosed on three sides with an open graded hardcore base for the floor. The application was accompanied by a structural report (SR). This concluded that the structure is capable of being retained however, it is *'unsuitable if it is to be relied upon for significant load increment or stability function without significant modification and/or strengthening'*. In addition, the SR identifies that the rafters are undersized for an insulated roof, connections lack inherent stiffness and robustness and foundations are undersized.
8. The provision of a new foundation over the entire footprint of the building and secured to the existing pads would resolve the majority of the issues identified within the SR and enable the existing framing to be incorporated into the final scheme. Although internal works such as allowing for a floor are not generally regarded as development, in this instance, the existing structure is insufficient to bear the load of the proposed development to bring about the proposed residential use and in my view, the works of a new foundation would include the construction of a new structural element for the building.
9. In certain circumstances the PPG anticipates and is permissive of works to replace a roof, however, in the appeal case the replacement roof is contingent upon the strengthening of the overall framework and a new foundation.
10. Albeit I accept that substantial works could fall under the scope of Class Q, they nonetheless presuppose that the works comprise 'conversion'. In this instance, the building before me would not be capable of functioning as a dwelling without the building works outlined above. These works go well beyond what could reasonably be described as conversion, and notwithstanding the retention of the steel portal frame as the main structural element for the building, the works described would be so extensive as to compromise a rebuild. I therefore conclude that the works necessary to create a dwelling from the structure would not fall within the scope of that permissible under Part Q. Accordingly, they would not be permitted development under Class Q(b).

Other Matters

11. There is dispute between the parties concerning a raised floor level which would be required to overcome a risk of flooding. However, it has not been necessary to reach a conclusive view on this matter. Even if I were minded to accept the Appellant's position, it would not alter my view that the other works, as referred to above, go well beyond what could be reasonably described as works of conversion.

² Reference ID:13-105-20180615

12. Reference has been made to schemes at Whenby and North Rigton. Albeit the appellant has provided the officer report for each of those schemes, there is limited evidence before me relating to the structural integrity of those original buildings. Moreover, the building at Whenby was summarised as being '*structurally sound*' and the North Rigton building was said to be '*in reasonable condition with no significant structural problems*'. As such, it is not clear to me that the circumstances of those schemes are comparable to the appeal proposal. Therefore, a comparison is of little relevance in this instance and I have considered the appeal before me on its individual planning merits.

Conclusion

13. For the reasons given above and based on the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO, as amended.
14. Therefore, the appeal is dismissed.

E Brownless

INSPECTOR