
Appeal Decision

Site visit made on 9 March 2021

by Jonathan Price BA(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2021

Appeal Ref: APP/F2605/W/20/3259563

Cherry Tree Farm, Church Lane, Stanfield, Norfolk NR20 4AP

- 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 Mr and Miss Roger and Kate Duffield against the decision of Breckland District Council.
 - The application Ref 3PN/2020/0015/UC, dated 21 April 2020, was refused by notice dated 10 September 2020.
 - The development proposed is to convert existing agricultural buildings to create two dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. Whether the building operations reasonably necessary to create two dwellings would comprise the conversion of the building, such as to be permitted under Class Q of the GPDO.

Reasons

3. The proposal relates to a three-bay steel portal framed barn. The roof of the building is clad with profiled cement asbestos sheets, as is the rear gable end. The internal partitions and side walls are of a partial height, block work construction, with sheeting above. The central section has a wide opening to the front. Following submission, the application was amended from an original scheme for three dwellings. This was due to the proposed demolition of one side bay, on account of its poorer quality cladding.
4. Class Q of the GPDO permits development consisting of a change of use of an agricultural building to Class C3 (dwellinghouses) together with building operations reasonably necessary to convert the building, subject to the further provisos and limitations set out in that section. The Planning Practice Guidance¹ (PPG) provides some clarification over what such reasonably necessary building operations might comprise for the change of use to be permitted under Class Q. It makes clear that the permitted development right assumes that the agricultural building is capable of functioning as a dwelling.

¹ Paragraph: 105 Reference ID: 13-105-20180615 Revision date: 15 06 2018.

5. The PPG states that the Class Q right permits building operations which are reasonably necessary to convert the building, which may include those which would affect its external appearance and would otherwise require planning permission. It continues by confirming that this includes 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.
6. However, the PPG makes it clear 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. 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. For a discussion of the difference between conversions and rebuilding, the PPG refers for instance to the 2016 High Court judgment in the Hibbitt case².
7. Like this proposal, the Hibbitt case related to a large steel framed barn, only one which was largely open on three sides. The barn to which this appeal relates is more completely clad to each of its sides. Where this includes asbestos sheeting, the appellant has submitted generic advice over the techniques available to seal this and enable its safe retention for continued use as part of the finished development.
8. There is little by way of actual constructional detail provided in this proposal. A structural report³, based on a visual appraisal, is provided. This mainly confirms the robust construction of the concrete flooring upon which the development would take place and the structural soundness of the existing steel frame. There is no detailed scheme for this report to add much further upon, although it refers to the need for the steel frame to be augmented by side bracing to the side and division walls and new foundations and walling if required to the front elevation. I have no reason to doubt the report's conclusion that structurally this barn could be converted to residential use. However, since the Hibbitt judgment, the PPG no longer refers specifically to the permitted development right depending upon the existing building being structurally strong enough to take the loading which comes from the external works to provide for residential use.
9. Since Hibbitt, the PPG guidance over what qualifies as development permitted under Class Q focuses more on whether or not the amount of rebuilding work required goes beyond what is reasonably necessary for the proposal to be considered as a conversion of the agricultural building. In my view, the existing building lacks the substance for the works to comprise a conversion. Whilst details are somewhat scant, the steelwork provides just a skeletal frame to the building, and the existing cladding little more than an outer shell. Without the details to persuade me otherwise, there would need to be substantial rebuilding within this frame and shell. This is such that the existing building cannot be found as possessing the inherent suitability for conversion to residential use upon which the permitted development right depends.

² Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

³ HA Consulting Engineers Limited – job no. HA1423 dated 24 April 2020.

10. The PPG confirms that internal works are not generally development and for the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q. However, in this case, the existing building lacks the fabric to provide a basis for the conversion permitted under the GPDO.

Conclusion

11. By simply offering a frame and superficial shell, within which to execute the entirely fresh rebuilding of a dwelling, the existing building is not considered already suitable for residential conversion so as to benefit from the Class Q permitted development right. For the reasons set out, the building operations reasonably necessary to create two dwellings would not comprise the conversion of the building such as to be permitted under the GPDO. Consequently, I conclude the appeal should be dismissed.

Jonathan Price

Inspector