



Appeal Decision

Site Visit made on 19 March 2021

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2021

Appeal Ref: APP/R0660/W/20/3263764

Canal Side Farm, Harvey Road, Congleton, CW12 2PS

- 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 Mr D Heath against the decision of Cheshire East Council.
 - The application Ref 20/2026C, dated 17 May 2020, was refused by notice dated 10 July 2020.
 - The development proposed is the change of use of existing agricultural buildings and conversion to 3no. residential dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

Reasons

3. Class Q(b) 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 dwellinghouse (Class C3), together with building operations reasonably necessary to convert it.
4. The appeal concerns a cluster of three buildings located on the edge of a field, backing onto houses. The largest of the three buildings is a timber framed pole barn. There is a low blockwork wall along part of the front elevation, but other than that the walls are formed of slatted timber and the roof is of corrugated metal. The front elevation is in three sections, one of which is open. There are no existing openings on the side or rear elevations.
5. The appellant has provided information from a chartered builder/heritage surveyor confirming that the barn would be suitable and capable of being converted to a residential dwelling. However, in the absence of further information or a structural survey, the extent of building operations necessary to achieve this is unclear.
6. I note comments that minor internal structural elements and other internal works would be required, which are allowed for under Class Q. However, the

pole barn is a lightweight structure, and to make it habitable it would also be necessary to install external walls on all elevations and replace the roof. The condition of the floor slab is unknown, and it is unclear whether new foundations would be required. From the very limited information provided, it appears likely that the existing frame would be insufficient to support the additional loading from a new, heavier roof and sealed sides to the building. Consequently, it would be necessary to build a new steel structure or portal frame to sit alongside that existing.

7. I do not doubt that a new dwelling could be created that maintained the existing shape and appearance of the existing building, which retained the existing frame alongside a new supporting structure. However, significant work would need to be undertaken in order to provide a habitable space. The extent to which any of the existing building elements would form part of the new dwelling is unclear, and could be very limited.
8. I acknowledge that the GDPO makes no distinction between structural and non-structural works, and that operations such as the installation or replacement of exterior walls and roofs are allowed for under Q.1(i). However, this is only to the extent reasonably necessary for the building to function as a dwellinghouse. From my observations on site, the installation of external walls, roof and an additional supporting structure would go beyond what was 'reasonably necessary' to change the use of the building; rather, they would be essential.
9. In order for the permitted development right to apply under Class Q(b), the development proposed must fall within the concept of a 'conversion' as opposed to a 'rebuild'. If it does not, it fails at the first hurdle and does not constitute permitted development.
10. Guidance on the distinction between 'conversion' and 'rebuild' was provided in the case of *Hibbitt v SSCLG* (2016) EWHC 2853, in which 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 existing structure or, in effect, the creation of a new building.
11. The Hibbitt case found that the line between what constitutes a conversion and a rebuild is a matter of planning judgement. In the current appeal, the extent of building operations needed to change the use of the timber pole barn a dwellinghouse would mean that, in all practical terms, the development would involve starting afresh, with only a modest amount of help from the original agricultural building. As such, the works would go beyond what could reasonably be described as a conversion and would be so extensive as to constitute rebuilding.
12. Consequently, I find that the works necessary to effect the change of use from the existing timber barn to a residential dwelling would not fall within the provisions of Class Q(b), so would not be permitted development. Although the two smaller blockwork buildings may be capable of conversion, the proposed scheme includes all three structures, so the scheme as a whole fails.

Other Matters

13. Interested parties have questioned whether the proposal would meet the other requirements of Class Q. However, as I have found that the proposal does not

fall within the provisions of Class Q, it has not been necessary to address these points any further.

Conclusion

14. For the reasons given above, having considered all other matters raised, I conclude that the appeal should be dismissed.

R Morgan

INSPECTOR