
Appeal Decision

Site visit made on 20 May 2021

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/J0405/W/21/3267163

Ruby Farm, Piddington Road, Ludgershall, Buckinghamshire HP18 9PJ

- 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.
 - The appeal is made by Mr Christopher McNally against the decision of Buckinghamshire Council.
 - The application Ref 20/02193/COUAR, dated 5 July 2020, was refused by notice dated 21 August 2021.
 - The development proposed is determination as to whether prior approval is required in respect of transport & highway impact, noise, contamination risk, flooding and locational considerations for the conversion of agricultural barn into one dwellinghouse (Class Q(a)) and in relation to design and external appearance of the building (Class Q(b)).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Christopher McNally against Buckinghamshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. In their reason for refusal, the Council identify that they consider that the proposal would fail to meet the requirements relating to the building operations that are reasonably necessary to change the use of the building. From the evidence before me, it is not disputed that the appeal fails to satisfy the other requirements as set out under paragraph Q.1. I therefore consider the appeal on this basis.

Main Issue

4. The main issue in this appeal is whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO).

Reasons

5. 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. Paragraph Q.1.(I) places restrictions on the building operations which can be undertaken. 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.

6. Paragraph 105 of the Planning Practice Guidance (PPG) provides further clarification. The guidance states that it is not the intention of the permitted development rights to include the construction of new structural elements for the building. Therefore, it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.
7. The proposal would retain the existing metal cladding on the elevations of the building, with the only element of the existing structure showing to be replaced being the roof. In support of the appeal, the appellant's Structural Report confirms that the existing side cladding of the building is in good order, is well fixed to the existing structure and provides a full water-tight envelope to the existing building.
8. In the view of the Council, they consider that it is not possible to retain the existing cladding on the elevations of the building. This position is based on a previous submission where the appellant proposed to replace all the cladding to enable conversion. Whilst this may have been the case, there is no substantive evidence before me to justify the position taken by the Council as to why the current approach is not achievable. Furthermore, I note the response from the Council's own technical advisor, which supports the information submitted by the appellant.
9. The appellant's Structural Report concludes that the existing structure of the building is adequate to carry the loadings required for conversion without any structural modifications. No evidence has been put forward by the Council to dispute this and, from my own inspection of the building, I consider this conclusion to be reasonable.
10. Notwithstanding the above, in terms of other work required to convert the building into a dwelling, other than the Structural Report, I have very limited information before me with regards to the extent of the works necessary to enable the conversion to take place. For example, no details are provided on how the internal structure would be installed, how the required flooring would be created or how the replacement roof would be connected to the existing structure. Furthermore, no details are provided to demonstrate how any of these would interact and work with the retained elements of the building.
11. Whilst the evidence indicates that the building could be converted, the PPG identifies that, whilst building works are allowed, it assumes that the building in question is capable of functioning as a dwelling and that the building operations to be undertaken are reasonably necessary to convert the building. Should it be considered that the proposed works go beyond this, then they would not represent permitted development under Class Q.

12. On this basis, and without the necessary information, whilst the building may be structurally sound, it is not possible to fully assess the extent of the proposal and therefore enable me to be completely satisfied that, despite the claims of the appellant, the building can be converted without only modest help from the original agricultural building.
13. For the above reasons, I conclude that the proposal would not represent permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Other Matters

14. The appellant has referred to a potential fallback position with regards to the use of the building under Part R of the GDPO and that this should be a consideration. This appeal is however concerned with the question as to whether the proposal would meet the requirements set out under Part Q and whether it would be permitted development. The potential for alternative uses under the GPDO does not form part of the test as to whether the proposal would meet the requirements of Part Q. I have therefore had no regards to the potential fallback as set out by the appellant.

Conclusion

15. I therefore conclude that, for the above reasons, the appeal should be dismissed.

Adrian Hunter

INSPECTOR