



Appeal Decision

Site Visit made on 20 May 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2021

Appeal Ref: APP/E2001/W/21/3269127

Barmby Farm, Barmby Moor, YO42 4HR

- 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 William Farrow against the decision of East Riding of Yorkshire Council.
 - The application Ref 20/01966/AGRNOT, dated 25 June 2020, was refused by notice dated 19 August 2020.
 - The development proposed is described as change of use of an agricultural building to a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of Q(a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order, or Q(b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.
3. Schedule 2, Part 3, Paragraph W of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) sets out the prior approval process. It states that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval.

Main Issue

4. The main issue in this case is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015, having particular regard to:

- Whether the building operations proposed are reasonably necessary for the building to function as a dwelling house

and, if those requirements are met;

- whether the proposed change of use would require prior approval under Class Q.2 (1) of Schedule 3, Part 2 of the GPDO.

Reasons

5. The GPDO states at paragraph Q.1(i) that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or external walls or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.
6. The Planning Practice Guidance (PPG) states at paragraph 105 that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted. However, the PPG clarifies 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.
7. The appeal relates to a metal framed agricultural building that is accessed from York Road (A1079). It has blockwork walls at a lower level with metal cladding above and a sheet metal roof. A Structural Report by Rawcliffe Associates Ltd (dated 16 October 2020) notes that the building is in reasonable structural condition and could be converted to residential use with no significant structural repairs.
8. The proposal is to convert the building to a dwelling and this would involve the removal of the existing metal cladding and its replacement with timber cladding. It would also include the insertion of a double height window in place of the existing steel sliding doors. The existing structural frame would remain in place and provide the main load bearing element of the building. The existing roof would be replaced with a metal standing seam roof that would include a series of rooflights. Taking all these aspects together, these elements form a substantial part of the building's façade and outer layer and would result in only the skeletal frame and the lower blockwork walls remaining. Very little of the existing building would be utilised which I consider goes beyond a conversion and what could be considered reasonably necessary for the building to function as a dwelling house.
9. I acknowledge that the proposed works shown on the drawings are among those specified in the GPDO. However, based on the evidence submitted and my own observations on site, the building appears to require significant works to facilitate its conversion to a dwelling. Taking into account the extent of new material proposed to the walls and roof, I consider that the proposed works to

the building to accommodate a dwelling would be cumulatively so extensive that they would be more akin to a rebuild than a conversion of the existing building.

10. I have been referred to the Hibbitt judgement¹, which considers the interpretation of "reasonably necessary" in Class Q. In Hibbitt, 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 pre-existing structure or, in effect, the creation of a new building. It also provides a detailed assessment of the differences between conversion and re-building.
11. The judge in the Hibbitt case stated that there will be numerous instances where the starting point (the "agricultural building") might be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such magnitude that in practical reality what is being undertaken is a rebuild. It is a matter of judgment, for the decision maker, to establish in each case where the line is drawn, by considering the type and extent of the works proposed in terms of whether a proposal amounted to a conversion rather than a re-build.
12. Taken as a whole, I consider the existing building would not be able to function as a dwelling. I consider that the works outlined result in the substantial re-building of the pre-existing structure and cumulatively, the extent of the works required would extend beyond the building operations reasonably necessary to convert the building to residential use under Class Q.
13. The appellant outlines how the existing building is intact and can be converted with the external fabric in place. This is not however the development before me, that involves the removal of a substantial amount of the existing building. An application of this nature does not allow me to give weight to any fallback that the appellant may allude to.
14. In order to benefit from the permitted development rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must involve only building operations reasonably necessary to convert the building in accordance with the definition at Class Q(b) and paragraph Q.1(i). Based on the evidence before me, it has not been demonstrated that the required works would be limited to building operations reasonably necessary to convert the building, so as to be permitted development under Class Q.

Conclusion

15. Given my conclusion that the proposal would not be permitted under Schedule 2, Part 3, Class Q.1 of the GPDO, there is no need for me to consider the proposal against the conditions set out in Class Q.2(1). For these reasons and having regard to all matters raised, the appeal is dismissed.

A M Nilsson

INSPECTOR

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