



Appeal Decision

Site Visit made on 26 July 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th August 2021

Appeal Ref: APP/W1525/W/21/3273406

Farm View, East Hanningfield Road, Sandon, Chelmsford, CM2 7TQ

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Mark Juniper against the decision of Chelmsford City Council.
 - The application Ref 21/00035/CUPAQ, dated 24 December 2020, was refused by notice dated 25 February 2021.
 - The development proposed is described as "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 to the Use Classes Order and; Building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses)."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Town & Country Planning (General Permitted Development) (England) Order 2015 (the Order) permits development involving the change of an agricultural building and land within its curtilage to a dwellinghouse, subject to accordance with criteria set out in Schedule 2, Part 3, Class Q of the Order. Paragraph W of Part 3 sets out the prior approval process, stating that an application may be refused where a proposed development does not comply with conditions, limitations or restrictions specified as being applicable to the development in question.
3. The Government released a revised National Planning Policy Framework in July 2021. The main parties were invited to comment on the revised document.

Main Issue

4. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the Order.

Reasons

5. Paragraph Q.1(i) of the Order identifies the extent of building works permitted under Class Q as being those reasonably necessary for the building to function as a dwellinghouse. These include the installation or replacement of windows, doors, roofs, or exterior walls.

6. National planning practice guidance advises that this assumes that the existing building is capable of functioning as a dwelling, and only those works reasonably necessary for the building to function as a dwelling house are permitted. It further advises that 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.
7. Both main parties have referred to the *Hibbitt* judgment, which addresses the extent of what works can be considered reasonably necessary and which involved an open-sided building similar to the appeal building. In that case the judge advised that it was a matter of planning judgment in such cases whether the proposed works were reasonably necessary.
8. The limited extent of material comprising the exterior of the building results in a skeletal appearance. Only one end of the building has any cladding forming a wall, and that only reaches partway from the eaves towards the ground. The remaining three sides, including the two long sides of the building, are wholly open.
9. To be capable of functioning as a dwelling, a greater extent of external material would be required than presently exists. The proposed works would replace the roof in its entirety, as well as the existing partial wall to one end of the building. The structural frame and floor would be retained, and any internal works would not require permission. Nonetheless, there is so little substance to the existing building and so much of what does exist would be removed that the building is not suitable for conversion to residential use. The extent of works proposed would therefore amount to a fresh build rather than a conversion.
10. As the proposed building works would not be limited to what is reasonably necessary to convert the building, the appeal proposal would not be permitted development under Schedule 2, Part 3, Class Q of the Order.

Other Matters

11. The site falls within a zone of influence for a European designated site. Had I been minded to allow the appeal, it would have been necessary as the competent authority to conduct an appropriate assessment to determine whether the appeal proposal would result in a significant effect on the site. However, as I am dismissing the appeal on other grounds it is not necessary to consider the matter further.

Conclusion

12. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR