



Appeal Decision

Site visit made on 27 July 2021

by Samuel Watson BA(Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 24th August 2021

Appeal Ref: APP/J3720/W/21/3269751

Agricultural building off Compton Scorpion Lane, Darlingscott CV36 4PW

- 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 M Taylor against the decision of Stratford on Avon District Council.
 - The application Ref 20/03712/COUQ, dated 22 December 2020, was refused by notice dated 16 February 2021.
 - The development proposed is described as 'prior approval application for the change of use of an agricultural building in to a smaller residential dwelling (C3) and associated operational development under Class Q Parts (a) and (b) of the General Permitted Development Order (GPDO).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would fall within the definition of development permitted by Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) with specific regard to the extent of the proposed building operations.

Reasons

3. The existing barn is formed of a portal framework with a mixture of cladding and blockwork walls making two bays. The western bay has three blockwork walls which extend part way to eaves, it is open on the long edge of the building facing away from the road. The eastern bay shares one of the blockwork walls and also has a timber framed wall with cladding, however this wall is partially fallen away from the building and it contributes little to the overall structure. The remaining two sides of this bay are open. Overall, the building appears to be in a somewhat tired state.
4. A number of appeals and a High Court judgement relating to development under Class Q have been put before me. The Hibbitt case¹ in particular demonstrates that where works would be so significant as to be tantamount to a 'rebuild' or 'fresh build' this would go beyond what is considered a conversion and as such beyond the provisions of Class Q. I also note Paragraph 105 of the

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

Planning Practice Guidance (PPG) which states 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.' While I have been mindful of the similar appeals raised by the parties, it is clear that assessing where the line between conversion and rebuild falls is a matter of planning judgement and is particular to the circumstances of each case.

5. With regard to this appeal, I understand from the submitted evidence that it is necessary for the appellant to remove the asbestos cladding and roofing materials from the building because of the associated health and safety risks from asbestos. However, Class Q does not set out a preclusion, on the grounds of health hazards, for assessing works within the overall assessment. Indeed, given Paragraph 105 of the PPG raised above, I find that such a matter would be directly pertinent to the assessment of whether the building is suitable for conversion.
6. As a result of the proposed works the complete roof would be removed and replaced, additional walls would also be erected to infill the existing openings and the fallen wall. Class Q.1 (i)(i)(aa) allows for the replacement or creation of external walls and roofs, where they are reasonably necessary for the building to function as a dwellinghouse. However, those parts of the building which are to be retained, namely the blockwork walls and concrete framework, provide a very modest and skeletal part of the building as a whole. In particular the blockwork walls account for significantly less than half of the proposed external walls. As such, I find the overall works would be of such a magnitude as to far exceed the meaning of conversion within the provisions of Class Q.
7. The appellant has raised that the new floor would not be considered development under Class Q, and I note from Paragraph 105 of the PPG that new floors are not prohibited and internal development is generally not considered development for planning purposes. In this case, and given that the floor would be entirely within the footprint of the building, I find that it would fall within the provisions of the class. I note also that there is no dispute as to the structural integrity of the building's framework. However, neither of these matters sway me from my views on the amount of new works I have set out.
8. Mindful of the caselaw before me and the guidance of the PPG, I find that the works would be so substantial that they would be tantamount to a re-build. The proposal would therefore exceed the scope of the provisions set out within the GPDO under Class Q with regard to building operations reasonably necessary to convert an existing agricultural building.

Conclusion

9. With the above in mind, the appeal scheme would not comply with the description of permitted development as it is set out by Schedule 2, Part 3, Class Q of the GPDO. The appeal should therefore be dismissed.

Samuel Watson

INSPECTOR