



Appeal Decision

Site Visit made on 11 August 2021

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2021

Appeal Ref: APP/P1045/W/21/3274559

Crystal Springs Farm, Cuscas Lane, Brailsford DE6 3BG

- 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) (hereafter 'the GPDO').
 - The appeal is made by Brooklyn Ellis Ltd against the decision of Derbyshire Dales District Council.
 - The application Ref 21/00149/PDA, dated 4 February 2021, was refused by notice dated 22 April 2021.
 - The development proposed is change of use of agricultural building to 2 no. larger dwellinghouses (Use Class C3) and associated building operations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the development used above is taken from the appeal form and the Council's decision as no description was provided on the application forms.
3. The Council have already granted prior approval under Schedule 2, Part 3, Class Q (a) of the GPDO for the change of use of the building and land within its curtilage for Class C3 Use. As such, although this submission (under Class Q (b)) technically covers the change of use and the associated building operations reasonably necessary to convert the building, my assessment focusses on the associated building operations.

Reasons

4. As set out above, part Q (b) allows for building operations reasonably necessary to convert the building to a dwellinghouse. In terms of defining 'building operations reasonably necessary', the case of *Hibbitt v SSCLG* [2016] EWHC 2853, which both parties refer to, held that this simply means that any such works are not superfluous and unnecessary. In the case before me it is not suggested by the parties that the proposed works are beyond what is needed to create two dwellinghouses. I concur.
5. The main issue therefore is whether the extent of the works proposed constitute a conversion, or are so extensive that they effectively comprise a new build and so would go beyond what is permitted by the GPDO. This, as recognised in *Hibbitt*, is a matter of planning judgement depending on the particular circumstances of the case.

6. In this case the proposal seeks to convert an existing steel framed agricultural building to two dwellings. The development would involve the retention of the steel structural frame, the pre-cast concrete panels which partially line the front and rear sides of the building, the timber cladding above those panels, the fibre cement roofing panels and the hardcore floor. From my site visit, the condition of most of these existing elements appeared generally good; the steel frame did not appear corroded, the pre-cast concrete wall panels and cement fibre roofing panels were generally intact, and the timber eaves, purlins and cladding were not weathered, although some of the cladding was loose.
7. New works would include the provision of the side gable walls. These sides are currently mainly open with some timber cladding at roof level. However the gable ends of the proposed dwellings would be set back under the roof and so would be constructed afresh, albeit the timber cladding would be reused in the new walls. Other new elements would include a concrete floor, fixing cedar cladding on to the concrete wall panels and repair of the existing timber cladding.
8. The new gable walls would be significant in size and it is not clear how these walls would be supported given that, as stated in the Construction Methodology Statement (CMS), they would be independent of the existing steel frame so as to not increase loading. This would suggest that some sort of new foundation would be necessary for the gable ends. This also applies to the walls separating the houses from the central communal area. Furthermore, from the details in the CMS, the floor appears to be little more than a hardcore sub floor. New sand blinding, a damp proof course, insulation and concrete screed to cover the whole building's floor would therefore be necessary. Also as there are gaps between the cladding timbers and gaps between the cement roofing panels, some additional construction works, and not just internal insulation, would be necessary here. In addition, the provision of doors and windows at ground floor level into the rear wall would involve cutting into almost every concrete panel along this side which would reduce their contribution to the finished dwellings and the usefulness of their retention.
9. Overall, although the existing elements would contribute much to the new dwellings, I consider the totality of all the alterations is significant and would mean that the works go beyond mere conversion.
10. In addition to the above, paragraph Q.1(i) says that development would not be permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls to the extent reasonably necessary for the building to function as a dwellinghouse. The proposed works to the floor are so substantial that they would effectively comprise the provision of a new concrete floor, which is an operation not listed as permitted.
11. Therefore, overall, the development would not constitute permitted development under Class Q of Part 3 to Schedule 2 of the GPDO.
12. The appellant draws my attention to two appeals¹ where the works proposed were considered to amount to permitted development. I do not have the full details of those cases, but from a reading of the decisions it is clear that in both cases the agricultural buildings included a concrete floor. Also in one of the examples three of the walls were constructed of concrete blocks, so is more

¹ Refs APP/J3720/W/17/3179581 & APP/K1128/W/18/3199823

substantial than the case before me. In the other example the existing structural elements, including the floor, would have supported the new walls, whereas in this current case both gable ends plus the walls dividing the two houses would be independent of the existing structural frame.

13. The Council also refer to paragraph Q.1(h) in their reason for refusal. This states that development is not permitted if it would result in the existing building being extended beyond its external dimensions. The addition of cladding to the existing pre-cast concrete panels would minimally increase their thickness. However this would be by such a negligible degree that the walls would remain to be contained under the existing roof and the building would not appear to be any larger whatsoever. In my view, the development would therefore meet paragraph (h). This does not however affect the fact that the development would not constitute permitted development.

Other Matters

14. The appellant advises that the development has already been included in the Council's housing figures and hence makes a contribution to the Council's housing supply. Nonetheless, this has no bearing on my assessment as to whether the development meets the criteria in Class Q.

Conclusion

15. For the reasons given above, and having had regard to all other considerations, I conclude that the appeal should be dismissed.

Andrew Owen

INSPECTOR