



Appeal Decisions

Site Visit made on 21 September 2021

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 6th October 2021

Appeal A: APP/Y2620/W/21/3266949

Laurel Farm, Thorpland Road, Fakenham NR21 8NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by C.E. Davidson Farms Ltd against the decision of North Norfolk District Council.
 - The application Ref: PU/20/1494, dated 31 August 2020, was refused by notice dated 4 November 2020.
 - The development proposed is change of use of agricultural building to 2 dwellinghouses (Class C3).
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Appeal B: APP/Y2620/W/21/3266950

Laurel Farm, Thorpland Road, Fakenham NR21 8NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by C.E. Davidson Farms Ltd against the decision of North Norfolk District Council.
 - The application Ref: PU/20/1495, dated 31 August 2020, was refused by notice dated 4 November 2020.
 - The development proposed is change of use of agricultural building to 1no. dwellinghouse (Class C3).
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Decision

1. The appeals are dismissed.

Application for costs

2. An application for costs in respect of both appeals was made by C.E. Davidson Farms Ltd against North Norfolk District Council. This application is the subject of a separate decision.

Preliminary Matters

3. While noting some inconsistency between submitted drawings, I take the proposed development sites' red line boundaries and the proposed layouts in these cases to be as illustrated on drawings LAUREL-LAY4 Rev 3 for Appeal A and LAUREL-LAY rev 2 for Appeal B, for the purposes of making my decisions. Accordingly, the third reason for refusal is addressed.

Main Issues

4. The main issues in both these cases are whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO, with specific regard to:
 - whether the building operations are reasonably necessary to convert the building; and
 - the proposal's effect on highway safety.

Reasons

Building operations

5. Under Class Q, Paragraph Q of Part 3 of Schedule 2 of the GPDO sets out that development consisting of (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), or (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building, is permitted development, subject to prior approval on specific matters.
6. For development to be permitted under Class Q, building operations other than the installation or replacement of windows, doors, roofs or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse are not permitted.
7. Planning Practice Guidance (PPG) 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.'¹
8. In terms of what is 'reasonably necessary' for such conversion, the PPG points to the *Hibbitt*² judgement, which establishes the following. To be permitted under Class Q, building operations would, among other things, need to be of a magnitude to fall within the scope of a conversion, rather than exceed that concept and amount to a fresh build or rebuild.
9. Thus, Class Q does not exclude the possibility of replacement of exterior walls and the roof. However, in the light of the PPG and the Hibbitt judgement, if such works in combination with other works are of such magnitude to amount to a fresh build, they would not constitute permitted development.
10. The appeal buildings are disused poultry sheds. In Appeal A, existing blockwork walling would be incorporated in two of the four sides of each of the proposed dwellings at the Western Barn (Appeal A) building. The other two facades of each dwelling would be newly constructed. Also, for these proposed dwellings, the building's corrugated cement sheet roofing would be replaced with new profiled composite sheeting. As such, the much of these proposed dwellings' external fabric would be newly constructed.

¹ Ref ID: 13-105-20180222

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

11. In Appeal B, a dwelling is proposed on part of the footprint of the Eastern Barn (Building B). The east and south facades of the proposed dwelling would be of new construction.
12. While the colour coding on drawing LAUREL-ELEV3 Rev 0 illustrates the north and west elevations of this proposed dwelling as retained existing facade, the drawing captions indicate these proposed facades to solely be 'existing blockwork'. However, as confirmed in the appellant's Structural Engineer's Report, Building B's walls feature existing blockwork only in their low plinths, with the majority of the walls comprising timber frame with cement-based cladding. As such, in Appeal B it is not certain that retention of the entirety of the proposed dwelling's north and west walls is unambiguously proposed. This points to the possibility of much of the north and west walls being replaced.
13. Even if the non-blockwork parts of the north and west walls were to be retained, the east and south facades of the proposed Appeal B dwelling would be new, and the roof would be replaced with new profiled composite sheeting. Either way, much of this proposed dwelling's external fabric would be newly constructed.
14. Consequently, in these cases much of the proposed dwellings' external fabric would be newly constructed. As such, the agricultural buildings would not be able to function as the proposed dwellinghouses in the absence of the works detailed above, which are required to alter its original purpose. As a matter of fact and degree, I find that the required works would be of such magnitude as to amount to a fresh build.
15. Therefore, the proposed works in their entirety would go beyond building operations 'reasonably necessary' to convert the buildings to residential use under Class Q. Consequently I find that the proposals would not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO.
16. That the proposed dwellings would cover only a small proportion of the footprint of the existing buildings, with much of the latter proposed to be demolished, does not alter the above.
17. The Council has expressed concern that the buildings may not be structurally capable of supporting the proposed works, given that internal posts are not fixed to the floor, and the evidence indicates that full investigation of the loadbearing capacity of the floors is yet to be undertaken. Even if the buildings' frames were structurally capable of supporting the totality of proposed works, this alone would not be sufficient to meet the requirements of Class Q. Furthermore, as I am dismissing these appeals on other grounds, this would not alter my decisions.

Highway safety

18. The proposed dwellings would be located off a relatively narrow single lane road. Planning conditions suggested by the Highway Authority include a requirement for a scheme of off-site highway improvement works to Thorpland Road, to include carriageway widening. However, on the evidence before me I have no certainty that the implementation and maintenance of such a scheme would be achievable on land that is beyond the appeal sites. As such, given the narrowness of the lane and its lack of passing places, it is likely that the proposals would result in future occupants of the proposed dwellings, and

drivers of vehicles servicing them having to regularly make unsafe manoeuvres on this narrow lane when meeting oncoming traffic. This would also pose risk to others including pedestrians using the lane. That the lane has previously been used by HGV lorries servicing the farm does not alter the above.

19. Therefore, the proposal would fail to provide safe highway access, and would thus harm highway safety. As such, the proposal would fail to comply with the provisions of Class Q.2-(1)(a) in respect of highways impacts of the development.

Other Matters

20. Since their decisions, the Council have raised matters in their Delegated Officer's Reports and Appeal Statements regarding curtilage, whether an established agricultural unit is demonstrated, groundwater flood risk and protected species. These matters go beyond the reasons for refusal cited in the Council's decisions in these cases. Given that I find the proposals would not constitute permitted development on other grounds, it is not necessary in this instance for me to consider these other matters further.

Conclusion

21. For the reasons given above, I conclude that the proposals would not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO and, consequently, the appeals fail.

William Cooper

INSPECTOR