



Appeal Decision

Site Visit made on 21 September 2021

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Appeal Ref: APP/D1265/W/21/3276507

Southbank Farm, Higher Blandford Road, Cann Common SP7 0EE

- 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 (as amended).
 - The appeal is made by Mr A Read (Read Quality Building) against the decision of Dorset Council.
 - The application Ref P/PAAC/2020/00343, dated 30 November 2020, was refused by notice dated 15 January 2021.
 - The development proposed is change of use and conversion of agricultural buildings into 5 No. dwellings (Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of the development given on the appeal form, as it more fully and accurately describes the proposal than that given on the application form.

Background and Main Issue

3. Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) permits development consisting of 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), and, under Class Q(b), building operations reasonably necessary to convert the building for that purpose. This is subject to a number of situations where such development is not permitted, listed under Paragraph Q.1. The Council raises no concerns in respect of the proposal complying with the criteria in Q.1, but considers that the development is not permitted by Class Q(b) due to the extent of the works necessary to enable the existing buildings to function as dwellinghouses.
4. Consequently, the main issue is whether the building operations involved in the development would be to an extent reasonably necessary to convert the buildings to a use falling within Class C3 (dwellinghouses).

Reasons

5. The appeal relates to a group of buildings that lie in the countryside to the southeast of Shaftesbury. They are served by an access off the B3081 and are arranged around a central concrete courtyard. Whilst there is no dispute that

the buildings were in agricultural use on 20 March 2013, they are now largely disused, in various states of disrepair, and partially overgrown with vegetation. The drawings submitted with the application showing the existing elevations are dated January 2020, and do not provide an accurate representation of the condition of the buildings that I observed at my visit. Significant work would be required to enable any of them to be used as a dwellinghouse.

6. Class Q(b) permits building operations that are reasonably necessary to convert the buildings. Paragraph Q.1(i) indicates that such operations can include the installation or replacement of windows, doors, roofs, or exterior walls, water, drainage, electricity, gas, or other services to the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out the permitted building operations.
7. The Planning Practice Guidance provides advice on the interpretation of Class Q¹. It clarifies that the permitted development right conveyed by Class Q assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations that are reasonably necessary to convert the building, but 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.
8. In coming to my decision, I have also had regard to the Hibbitt case², which 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.
9. Building 1 is single storey, with a timber frame, and in a state of dereliction. I was unable to see the condition of the foundations due to the significant overgrowth of nettles and shrubby vegetation. The extent of the growth, however, suggests that it does not have a solid floor. The lean-to timber framed roof has almost entirely collapsed. The remaining walls comprise of rusty corrugated iron to the lower levels, with rough timber space-boarding above. The drawings carry a note saying that the existing buildings are to be retained and the dwellings constructed within the existing envelope of the barns. However, it has not been demonstrated that any of the remnants of the building could be retained *in situ* as part of a conversion. On the evidence before me, the development would involve the creation of a new building.
10. Building 2 is timber-framed with a mono-pitched roof covered in corrugated iron sheets. It has low level concrete block walls on two sides, but the remaining walls comprise rusty corrugated sheeting at the lower level with rough space boarding above. There are missing sections and gaps, and what remains is in such poor condition that it is unlikely to be capable of retention as part of a conversion. Furthermore, there is no evidence to demonstrate that the existing timber frame could be retained to support the additional loads that would be necessary to support an insulated roof and walls. On the evidence, therefore, little of the current building would remain, and the conversion would require a substantial re-building of the existing structure.

¹ Paragraph: 105 Reference ID: 13-105-20180615

² Hibbitt v SSCLG [2016] EWHC 2853

11. Building 3 comprises of six metal uprights, supporting three roof frames. Approximately 75% of the roof is covered in corrugated metal sheets. It is completely open sided apart from a section of railway sleepers to about two metres in height across part of its southern elevation. The floor was entirely overgrown, so it was not evident whether it was solid, and if so, to what depth. The skeletal nature of the structure means that four new walls and a partly new roof would be necessary to bring about a residential use. It is unclear whether these walls could be constructed without new foundations, or whether an insulated roof could be supported by the existing frame, which does not have any horizontal bracing. In any event, the extent of new building work required to enclose the skeletal frame would, in effect, amount to the creation of a new building.
12. Building 4 is a timber-framed structure with no walls or roof covering. The uprights are in very good condition, and appear to be of recent origin, with new metal bolts and plates. The roof timbers appear older but, nevertheless, in sound condition. Although no structural evidence has been provided, the timber frame appears to be in good condition. However, the lean-to element along the northern elevation, shown on the existing drawings, is entirely absent, apart from three rusty iron posts. The conversion of this skeletal structure would involve four new walls, and an entire new roof covering. It would also include the construction of a new lean-to extension along the whole of the northern side of the building, beyond the envelope of the existing timber frame. The development would, therefore, go beyond what is reasonably necessary for the conversion of the existing building to residential use.
13. Although substantial works could fall under the scope of Class Q, the permitted development right does presuppose that the buildings are already suitable for conversion. In this case, none of the buildings would be capable of functioning as a dwelling without substantial rebuilding, or the creation of an entirely new building. In the case of each building, the totality of the works would go beyond conversion, and that which would be reasonably necessary for the building to function as a dwelling. The building operations would not, therefore, comply with the requirements of Class Q(b).
14. My attention has been drawn to a planning permission³ for a dwelling within the same local planning authority area. That case, however, related to the grant of planning permission for the construction of a new dwelling, rather than prior approval under Class Q, which had already been granted. I have not been provided with details of the original prior approval application, so I cannot draw any comparisons between the two cases, with regard to the consideration of the requirements of Class Q.

Other Matters

15. It is contended by the appellant that the exterior building works to the barns could be finished so that a subsequent application for prior approval under Class Q would be successful. However, significant building operations would be necessary to bring the buildings into a condition that would make them suitable for conversion to residential use. It has not been demonstrated that such works could be carried out without the need for a separate grant of planning permission. I therefore give no weight to this suggested fallback position.

³ LPA reference P/FUL/2020/00257

Conclusion

16. For the above reasons, the building operations would go beyond what is reasonably necessary to convert the buildings to dwellinghouses. The proposal does not, therefore, constitute permitted development, and the appeal is dismissed.

Nick Davies

INSPECTOR