



Appeal Decision

Site visit made on 26 October 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2021

Appeal Ref: APP/Y1138/W/21/3278858

Meadow View Farm, East Leigh, Crediton, Devon EX17 6BG

- 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 Order).
 - The appeal is made by Mr Stephen Lethbridge against the decision of Mid Devon District Council.
 - The application Ref 21/00849/PNCOU, dated 30 April 2021, was refused by notice dated 25 June 2021.
 - The development proposed is described as the 'Prior notification for the change of use of an agricultural building to a dwelling under Class Q'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In my heading above I have taken the description of development from that given on the appeal form and decision notice.

Background and Main Issue

3. Schedule 2, Part 3, Class Q of the Order permits (a) the change of use of an agricultural building to residential use; or (b) the change of use together with building operations reasonably necessary to convert the building. In this case, both change of use and building operations to convert the building in question are proposed. Essentially the parties disagree as to whether the scope of the building operations proposed would constitute a conversion of the building, and therefore, whether it would fall within the scope of the development permitted by Class Q(b).
4. The Council does not otherwise dispute that the proposal is acceptable in respect of the other matters required to be satisfied by Class Q in paragraph Q.1, nor those requiring a determination as to whether prior approval will be required listed in paragraph Q.2(1).
5. Therefore, the main issue is whether the proposal would be permitted development meeting the requirements of Schedule 2, Part 3, Class Q(b) of the Order, having regard to whether it would comprise building operations reasonably necessary to convert the building to a dwelling house.

Reasons

Whether the proposal would be permitted development

6. The agricultural building that is the subject of the appeal currently forms one section of a series of barns with a utilitarian appearance. It has a steel portal frame and concrete flooring. The eastern wall comprises an approximately half height buttressed blockwork wall with spaced vertical timber boarding above. The north and south elevation walls, where present, are broadly similar, but there are large openings spanning about half the width of the elevation in both cases. The western side of the structure adjoins other barns so there is no external wall. However, a series of vertical timber posts, which have the appearance of railway sleepers, provide an approximately half height division within the internal space. The mono pitch roof is clad with corrugated sheeting with some translucent panels.
7. A structural survey report and letter¹, prepared by a qualified engineer, have been provided. These conclude that the appeal building is structurally independent of the remainder of the barns and in robust condition. As such, it states that the building has sufficient stability and strength to withstand the required loadings and provides a stable independent structure suitable for residential conversion. I have not seen evidence to undermine these findings and the Council does not dispute the ability of the building to structurally support the works proposed².
8. Nevertheless, there is limited information detailing the entirety of the intended building operations. The Structural Survey Report is not confined to the appeal building and does not clearly specify all the proposed building operations, nor what degree of original fabric would be retained. The letter that is specific to the proposal only marginally increases the detail provided by referring to the retention of the blockwork walls and buttresses and reference to an internal wall becoming an external wall in the western elevation. Whilst it confirms that the concrete slab would remain, only general references are made to the addition of new materials, roof and wall insulation and 'any' cladding or timber lining. The proposed elevational drawings provided are not annotated to specify external materials.
9. The planning statement³ says that the maximum amount of existing fabric has been retained but does not clearly quantify this. Nevertheless, it describes that the concrete floor, steel frame and blockwork walls would be retained. It asserts that the roof would be retained and unaffected completely and that the only 'new' parts of the proposals are the infill timber cladding above the large planks along the western elevation and the infill areas at the doors on the north and south sides amounting to 35% of the total wall areas⁴.
10. However, from my observations and evidence before me, it is not clearly shown what is intended in relation to the existing vertical spaced boarding in the upper area of the walls. The appellant's appeal statement⁵ states, amongst other things, that the wall build-up and finishes 'can be maintained', but this vague reference falls short of confirming that the timber boarding definitely

¹ Structural Survey Report dated 20.10.20 and letter dated 30.4.21, both prepared by Exeter Engineer

² Council's Planning report page 7

³ Prepared by Newspace Architecture, pages 5 & 6

⁴ Planning Statement and Appellant's Statement of Case

⁵ Dated 13.7.21

would be retained as part of the proposal. Undoubtedly substantial new material would be involved in making these large areas of walling watertight, and it seems highly likely, given the amount of work and for the ease of construction, that the existing boarding would be removed and replaced in its entirety.

11. In addition, I am doubtful that the roof would be completely unaffected as at the very least, some physical consequences would result from severing the section of the appeal building from the other barns as is denoted on the submitted plans. Therefore, some new external roofing fabric is likely to be required. Neither is it clear how the vertical timber posts in the western elevation would fare as external walling. In any event, given the mono pitch roof, the height of this wall would be greater than the other elevations. Consequently, it would necessitate a significant amount of new building fabric.
12. The omission of an assessment of the condition or suitability of the retention of the existing roof cladding, timber boarding on the upper walls and timber posts as part of the proposal in the building survey information provided reinforces my concerns.
13. In addition, the large openings on the north and south elevations would be infilled and new fenestration would be introduced throughout the building. Moreover, although Planning Practice Guidance (PPG) confirms that internal works are not generally development, works would also be necessary to provide appropriate insulation to the roof and walls, as well as provide internal dividing walls. These contribute to the overall building operations proposed in this case.
14. Taking these factors together, it is likely that substantial parts of the proposal would comprise new fabric with only a limited amount of original fabric retained.
15. PPG further advises that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling, clarifying 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. In this respect the PPG refers to relevant case law⁶ to which I have had regard.
16. The caselaw established that Class Q(b) only permits building operations necessary to convert the building, and therefore if a development does not amount to a conversion then it fails at the first hurdle. Furthermore, whether a proposal constitutes a conversion or a rebuild is a matter of planning judgement and the nature and extent of the proposed building operations are a relevant consideration in making that assessment.
17. In this case, the cumulative extent of the works necessary to facilitate a residential use would be extensive. In my view, they would amount to works of such magnitude that they would go beyond what would be reasonably necessary for the conversion of the building to a residential use.
18. The building in the Hibbitt case concerned an open sided steel framed structure, which was described in the case as skeletal. It was held that the

⁶ Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

proposal in that instance amounted to a fresh build that went a very long way beyond what might sensibly or reasonably be described as a conversion. The building before me has more substance than that description. Nevertheless, just because the circumstances presented in this case are not as extreme as those in Hibbitt, it does not follow that it might reasonably be described as a conversion. Based on its own merits, I have found that the proposal would be closer to a fresh build than a conversion.

19. Therefore, I find that on the evidence provided, the development proposed would go beyond building operations reasonably necessary to convert the building into a dwellinghouse and as such, would not benefit from the permitted development rights under Schedule 2, Part 3, Class Q(b) of the Order.

Conclusion

20. For the reasons given, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector