

Appeal Decision

Site visit made on 23 November 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2021

Appeal Ref: APP/L3245/W/21/3276084

Agricultural Building at The Stackyard, Hatton Barns, High Hatton, Shrewsbury SY4 4EZ

- 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 and Mrs N D Bratton against the decision of Shropshire Council.
 - The application Ref 21/00265/PMBPA, dated 18 January 2021, was refused by notice dated 12 March 2021.
 - The development proposed is change of use of existing former agricultural building to Class C3 dwellinghouse including creation of domestic curtilage (resubmission of 20/02236/PMBPA).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are as follows:
 - whether the proposal 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 suitability of the appeal building for conversion and its resulting external dimensions; and
 - whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3, with particular regard to outdoor space and potential contamination.

Reasons

Whether Permitted Development

3. The appeal building is a disused grain store. The external walls and roof of the building are partially clad in corrugated sheeting, while remaining sections of wall are exposed and show structural steel work. Internally, the building is divided into grain storage bays formed by steel plate walls and bracing.

4. A High Court judgement (*Hibbitt*¹) relating to development under Class Q has been referred to by both main parties. This demonstrates that where works would be so significant so as to amount to a 'rebuild' or 'fresh build' this would go beyond what is considered a conversion and as such beyond the provisions of Class Q. While I have been mindful of the obvious similarities of elements of this case to the proposal before me, it is clear that assessing the difference between a conversion and a rebuild in the context of Class Q is a matter of planning judgement with reference to the circumstances of each case.
5. The Planning Practice Guidance (PPG) recognises that for a building to function as a dwellinghouse some building operations will be necessary and should be permitted. This includes the installation or replacement of windows, doors, roofs and exterior walls. However, it is not the intention 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.
6. From my observations on the site visit, the building appears to be structurally robust, particularly due to its former use and extensive network of steel reinforcements. The appeal is supplemented by a Structural Inspection Report (Dragon Structural, ref: 20-052) (the report) which concludes that the building is of a robust and permanent structural condition which is considered fit for retention and conversion into the proposed single dwelling. The report highlights that 'the overall structure has inherent lateral stability due to the rigid form of the reinforced steel storage bays and the lateral and vertical bracing as part of the steel framed structure.' While the Council dispute the level of detail and highlight the limitations of this report, I have nothing before me to contradict its findings.
7. The proposed works show the removal of elements of the internal steel supporting walls to create openings necessary for a useable living space as well as the insertion of a new upper floor among others. The report advises this will require the removal of some of the diagonal and lateral bracing which ties the structure together. To compensate for this, new structural steelwork in the shape of 'goalposts' would be positioned around the edges of any new openings.
8. While I note the concerns of the Council as to whether the building is capable of being converted due to these structural works, I note their statement quotes the previous wording from paragraph 105 of the PPG. I have had regard to the updated version of this paragraph, which postdates *Hibbit*. This advises that 'Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q'. Consequently, this would not take the structural works proposed out of the range of suitability for conversion subject to adherence with other requirements of Class Q.
9. Moreover, the GPDO at section Q.1(i)(aa) allows for the installation or replacement of windows, doors, roofs and exterior walls. The number of new

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

openings proposed for windows and doors is minimal, while the existing roof and floor would both be retained.

10. Consequently, there is nothing before me to conclude that the building is not 'suitable' for conversion. While I have had regard to the numerous appeal decisions presented to me by the Council, there is little information included other than the decision letters themselves. In any event, I have assessed the proposal on its own merits. As a matter of planning judgement and based on the evidence before me, I find that the proposed development would meet the requirements of Q(b).
11. The appellant acknowledges that the proposed external cladding and timber boarding would 'thicken' the external walls but would not extend the footprint of the building to a material degree. However, this would not comply with the requirements of Paragraph Q.1 (h) of the GDPO since the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.
12. I have considered the advice from Legal Counsel, which advises the increase is *de minimis*. Be that as it may, the absence of other decisions whereby this matter constitutes a reason for refusal does not convince me this aspect of the design should be assessed in any other manner than in accordance with the terms of the GPDO in this respect.
13. For the reasons given above, the proposed development is not permitted under Class Q due to the conflict with paragraph Q.1(h). As a result, there is no need to consider the further issues in terms of the criteria contained within Q.2(1) (a) to (f) inclusive of the GPDO.

Other Matters

14. My attention is drawn to an allowed appeal² which it is argued allowed more extensive works to facilitate the conversion. However, the refusal reason in that case does not include criterion Q.1(h) and while there is discussion of new cladding, it was not considered a main issue relevant to that appeal. As such, this does not convince me the proposal before me acceptable on this basis.
15. I have considered the appellant's suggestion that a condition could be attached to any grant of permission to omit the external cladding and boarding to address section Q.1(h). However, this is not the proposal before me nor was it considered by the Council. While the appellant points out that the new cladding is for cosmetic reasons only, the report advises the cladding would be of benefit to aid in weatherproofing. From my observations on the site visit, the existing cladding showed external signs of deterioration and holes were evident in places. As such any omission of cladding would not be practical in the conversion of the building to residential use.
16. Although the appellant argues the proposed dwelling would provide additional housing in an area of restricted supply, this is not a relevant matter for this prior approval procedure.

² APP/P3040/W/16/3165076

Conclusion

17. For the reasons set out above, and taking all other matters raised into account, I conclude that the proposal would not be permitted development under the provisions of Class Q and the appeal should be dismissed.

C McDonagh

INSPECTOR