



Appeal Decision

Site Visit made on 3 November 2021

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2021

Appeal Ref: APP/F3545/W/21/3270709

Ducks Hall, Ducks Hall Lane, Cavendish CO10 8AL

- 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.
 - The appeal is made by Mr & Mrs G Willemsen against the decision of West Suffolk Council.
 - The application Ref DC/21/0070/P3QPA, dated 14 January 2021, was refused by notice dated 10 March 2021.
 - The development proposed is Conversion of farm buildings to 2 No Dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted a revised National Planning Policy Framework (the Framework) has been published. Comments were sought from the Council and the appellant. As the main parties have had the opportunity to provide comments no injustice has been caused. I have considered the appeal on the basis of the revised Framework.

Background and Main Issues

3. Class Q (a) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) 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) of the Schedule of the Use Classes Order¹. Class Q (b) of the GPDO permits building operations reasonably necessary to convert the building for that purpose.
4. Where development is proposed under Class Q (a) together with Class Q (b), and found to be permitted development, it is subject to the condition under paragraph Q.2(1) that before beginning the development an application must be made to the local planning authority for a determination as to whether the prior approval will be required as to (a) transport and highways impacts, (b) noise impacts, (c) contamination risks, (d) flooding risks, (e) location or siting, (f) design or external appearance, and (g) provision of adequate natural light in all habitable rooms.

¹ The town and Country Planning (Use Classes) Order 1987 (as amended)

5. The Council considers that the condition of the appeal building is such that the building operations necessary for the building to function as two dwellinghouses would exceed the scope of works permitted by Class Q. Furthermore, in its decision notice, the Council has included a refusal reason relating to the location and siting of the building with regard to impact on the living conditions of future occupiers in respect of privacy.
6. Consequently, the main issues are whether the proposal satisfies the requirements of the GPDO with regard to being permitted development for a change of use from an agricultural building to two dwellinghouses, having particular regard to the requirements of Class Q.1 (i); and if so, whether the location and siting of the agricultural building makes it impractical or undesirable for it to be used as dwellinghouses, in terms of whether it would provide satisfactory living conditions for future occupiers, having particular regard to privacy.

Reasons

Whether permitted development

7. Paragraph Q.1(i) indicates that building operations under Class Q (b) can include 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; and partial demolition to the extent reasonably necessary to carry out the permitted building operations.
8. The Planning Practice Guidance (PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted².
9. However, the PPG clarifies 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. It is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right. This is a matter of fact and degree and requires an element of judgement. My attention has been drawn to the Hibbitt judgement³ which relates to the difference between conversions and rebuilding dealt with under Class Q. This is important because if a development does not amount to a conversion it would fail to be development permitted under Class Q (b).
10. Prior approval under Class Q was granted in 2018⁴ for the change of use of the appeal building to two dwellings. Due to delays, caused in part by other planning matters in the vicinity of the site and the impact of the Covid 19 pandemic, that permission has not been carried out within the permitted timescale, resulting in the application that has led to this appeal. The appellant argues that because the building was previously found to be capable of conversion under Class Q, this remains the case and permission should have

² Paragraph: 105 Reference ID: 13-105-20180615 Revision date: 15 06 2018

³ Hibbitt v SSCLG [2016] EWHC 2853

⁴ Council reference DC/18/0483/PMBPA

been granted by the Council. Whilst I note the earlier permission and the circumstances that have led to the need to make a further application, it is, nevertheless, necessary to consider the appeal proposal on the conditions that exist at the time of the application subject of this appeal.

11. It is clear from the evidence submitted and from what I saw on my site visit that, despite the appellant's contention to the contrary, the condition of the building has deteriorated since the earlier permission. The north end gable wall, and consequently a part of the roof structure, has suffered collapse and has been rebuilt, including the addition of replacement purlins and roof cladding. Although this work could be considered to be a repair that does not require planning permission, it appears likely, because the building has not been used for agricultural purposes for quite some time, to have been completed in an attempt to advance the case for gaining permission for conversion, rather than as works necessary for the building's functions as an agricultural building. I consider this matter adds weight to the Council's concerns that the building is not sufficiently structurally sound to take the building works required without substantial rebuilding.
12. The appellant states that the wall did not collapse but was knocked down by impact. However, no substantive evidence has been provided to demonstrate that this is the case. Further, partial collapse of that wall was identified in 2017 which was not attributed to any impact damage. Thus, indicating that the condition of the building was already in demise.
13. The application was supported by a report of a structural review undertaken by a suitably qualified professional which was the result of a single visit undertaken on 12 December 2017. This is the same report that supported the earlier prior approval, albeit that some four years have since elapsed. The report makes clear that only a visual examination of the structural elements of the appeal building was carried out. Two photographs of the appeal building are included in the report which, along with the commentary, indicates that there was significant vegetation alongside, within and on the building at the time of the inspection. The report notes its limitations, stating that any part of the structure that was covered, unexposed or inaccessible was not inspected. It also acknowledges that during a single visit of a property it is generally not possible to gauge whether cracks are progressive or have ceased movement.
14. Notwithstanding the limitations of the survey, it identified that the rear gable walls had partially collapsed. Various levels of cracking were also identified, both externally and internally, some of which were considered capable of being readily repaired. The cause of a crack at low level on the front gable was not identified. The report also considered that "as long as the new roof covering reflects the weight of the cement covering or very similar the building has the potential to take the loading of the likely external conversion works".
15. Although, as previously stated, some rebuilding is recognised as being acceptable under Class Q, I am not satisfied, on the evidence provided, that the existing building is structurally strong enough to take the loading which comes from the external works required to provide for residential use. Very little detail has been submitted regarding the works and proposed materials necessary for the change of use proposed. Reference to specific roof materials approved in the earlier permission is made but no specific details have been submitted in this case. In the absence of any detailed, up to date structural

assessment combined with the level of defects identified in 2017, I cannot be certain that the building in its current condition, is capable of conversion without significant alteration. Having regard to Hibbitt, I acknowledge that the building in that case was open on all sides and therefore quite different to the appeal building here, however, this does not diminish the concerns I have already identified above. I consider it highly likely that the proposed development would include operations that go beyond that reasonably necessary to convert the building to two dwellings.

16. Overall, I find that there is insufficient evidence to determine that the appeal building is capable of conversion for residential purposes and that the building operations required would be to an extent reasonably necessary for the building to function as two dwellinghouses. On this basis the proposal would not satisfy the requirements of paragraph Q.1 (i) of the GPDO.

Location and siting

17. Given that I have concluded that the proposed development is not permitted under Class Q, there is no need for me to consider the further issue raised in relation to location and siting, as contained within Q.2 (1) (e) of the GPDO.
18. This is because even if I were to find that the proposal complied with these requirements, this could not alter my conclusion as to whether the appeal scheme constitutes permitted development.

Other Matters

19. I have been referred to another decision⁵ of the Council which the appellant considers offers support to the appeal proposal. It is said that the level of works required in that case exceed those necessary for the appeal proposal. However, from the limited information provided, I am unable to draw accurate comparisons between that permission and the appeal proposal which I necessarily determine on its own merits.
20. Ducks Hall, a Grade II listed building, lies to the north west of the appeal site. Had I found the appeal scheme to have been permitted development, I would have had to take account of the impact of the development on the setting of this listed building. However, given my findings, it has not been necessary to do so in this instance.

Conclusion

21. For the reasons above, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO.
22. The appeal is, therefore, dismissed.

S Tudhope

INSPECTOR

⁵ DC/20/1021/P3QPA