



Appeal Decision

Site visit made on 25 January 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2022

Appeal Ref: APP/Z3825/W/21/3273143

Raidons, Nutbourne Lane, Nutbourne, Pulborough RH20 2HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior 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 appeal is made by Mr David Blaber against the decision of Horsham District Council.
 - The application Ref DC/20/1419, dated 27 July 2020, was refused by notice dated 23 November 2020.
 - The development proposed is change of use from an agricultural building to dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form describes the proposed development as 'proposed change of use from an agricultural building to dwellings... please see supporting statement and plans'. The proposed plans show 5 one-bedroom flats would be constructed in a block within a large glasshouse. The proposed elevations of the glasshouse reflect 'approved' elevations shown on the same drawing number¹ and no existing elevations of the appeal building have been provided. The supporting statement clarifies: 'the application seeks to establish permission for the proposed building works in connection with conversion of the existing agricultural building into a residential dwelling(s)' and that the existing built envelope of the building would be retained.
3. Schedule 2, Part 3, Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) permits a change of use of a building from a use as an agricultural building to dwellings and Class Q(b) permits the same, together with building operations reasonably necessary to convert the building. The supporting statement and plans therefore confirm the proposed development would fall to be considered under the provisions of Class Q(b).

Main Issues

4. Taking the above into account, the main issue is whether the proposed development would include building operations which are reasonably necessary to convert the building into dwellings.

¹ 200226_001 Revision 001

Reasons

5. The 'approved' elevations appear to match the proposed plans which form part of a planning permission² granted by the Council for 'restoration of glasshouses' at the appeal site ('the Approved Works'). The proposed plans for the Approved Works show annotated brick upstands, vertical timber cladding, new glazed doors and a corrugated cement board roof to the appeal building. Although these annotations have not been provided on the proposed plans for the appeal scheme, this is what I interpret the proposed plans as showing.
6. I saw the appeal building to be a dilapidated glasshouse with thick vegetation growing through and around its structure, which appeared to comprise a lightweight rusted metal frame and rotten timber fixings. Many of its panes of glass were broken or missing, and some appeared to have been replaced with plastic sheeting. I was unable to fully enter the building as it appeared to be unsafe to do so.
7. The proposed plans show five dwellings would be constructed as a block within the appeal building, but no sections have been provided to show how high that block would be constructed or whether it would adjoin the existing building frame or roof. No structural information has been provided to demonstrate the existing rusted, lightweight metal frame of the building is capable of taking the weight of the proposed works without substantial structural works, and I note nine enclosed columns shown on the proposed floor plan which would appear to align with supporting metal poles I saw down the centre of the existing building.
8. The construction of a standalone block within the appeal building would not comprise operational development³, even if those works could be seen from outside the building; however, prior approval is sought in respect of the proposed change of use and conversion of the appeal building, including those works and the external works referred to above. The Planning Practice Guidance advises the permitted development right assumes the building is capable of functioning as a dwelling⁴. That would plainly not be the case here, where the existing building appears to be incapable of functioning for agricultural purposes without the Approved Works being completed.
9. The main parties have referred to *Hibbitt v Secretary of State for Communities and Local Government* [2016] EWHC 2853 (Admin) (Hibbitt), where it was considered that if development proposed under Class Q(b) does not amount to 'conversion' of a building then it would fail to fall within the scope of the permitted development right. The appellant has suggested that the Approved Works constitute a fallback position, making the proposal different to that considered in Hibbitt, where there was no extant planning permission for external alterations to an open sided building. However, the Approved Works are only a fallback position insofar as they would restore the external appearance and functionality of the building for agricultural purposes.
10. The judgement in Hibbitt is clear in explaining that a conversion is conceptually different to a 'rebuild' or a 'fresh build', and that 'a building could be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of

² Horsham District Council reference: DC/20/0408

³ as defined at section 55 of the Town and Country Planning Act 1990 (as amended)

⁴ Paragraph reference ID: 13-105-20180615

such magnitude that in practical reality what is being undertaken is a rebuild'. That would be the case in this instance because the proposal amounts to the erection of new building containing 5 flats within the remnants of an agricultural building. The existing building would therefore merely be restored and retained around the proposed dwellings, rather than converted into dwellings.

11. The appellant has referred to an appeal decision⁵ concerning a different site where the Inspector, when reaching their conclusion, noted an extant permission for cladding and infilling open sides of that building. That decision pre-dates Hibbitt, and I note the Inspector also highlighted the 'substantial steel frame with additional steel work in the roof structure' of that building when concluding it was structurally strong enough to take the loading weight of the proposed external works. There would therefore appear to be vast differences between that scheme and the proposal, and the findings of that Inspector do not lead me to conclude the proposed development would be a conversion of the existing building, notwithstanding the fact that the Approved Works could be carried out to the appeal building separately.
12. The appellant claims there would be no objection from the Council as to the extent of building operations proposed if the Approved Works had been completed prior to the submission of the proposal; however, that would be a very different situation to the current circumstances. I am obliged to assess the proposal based on the situation at the time of issuing this decision. In any case, the appeal scheme, as considered under Class Q, would still comprise the erection of a wholly new structure as dwellings within the existing building, rather than changing the use of and converting it to dwellings in the true sense.
13. The appeal building is not capable of functioning as a dwelling. The proposed development would include building operations which would go beyond what would be reasonably necessary to convert the building into dwellings. The proposal would not therefore comply with the description of permitted development as it is set out by Class Q.

Conclusion

14. For the reasons set out above the appeal should be dismissed.

L Douglas

INSPECTOR

⁵ Appeal ref: APP/Z3825/W/15/3130771