



Appeal Decision

Site visit made on 2 February 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2022

Appeal Ref: APP/L3245/W/21/3280391

Land at Hardwick Farm, Hardwick, Bishop's Castle SY9 5HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant 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 Richard Cooke against the decision of Shropshire Council.
 - The application Ref 21/00305/PMBPA, dated 18 January 2021, was refused by notice dated 28 April 2021.
 - The development proposed is the conversion of agricultural building into dwelling (prior notification under Schedule 2, Part 3, Class Q of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant submitted a structural assessment¹ along with this appeal. Although this information was not before the Council when it determined the application, I note that it had the opportunity to comment on the details of the assessment during the appeal. Accordingly, I consider that the Council would not be prejudiced by me considering the structural assessment thus I have had regard to it in my determination.

Main Issue

3. The main issue is whether the proposed development falls within the terms of the permitted development rights under Article 3, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), with specific regard to the extent of physical works proposed.

Reasons

4. The permitted development right under Article 3, Schedule 2, Part 3, Class Q(a) and (b) of the GPDO allows the change of use of an agricultural building and any land within its curtilage to a dwelling house together with building operations reasonably necessary to enable the conversion, subject to various limitations and conditions as set out in paragraphs Q.1 and Q.2 of that Class.
5. Paragraph 105 of the Planning Practice Guidance (PPG) states that the right under Class Q assumes that the agricultural building is capable of functioning

¹ Structural Assessment, BJSE Ref: 21157, Revision A, 18/06/21

as a dwelling. The right permits buildings operations which are reasonably necessary to convert the building, which may include the installation or replacement of windows, doors, roofs and exterior walls. However, 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.

6. The PPG also refers to the Hibbitt² judgement, in which it was found 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. Whether or not the proposed works go beyond the scope of conversion and would constitute a fresh build is a matter of planning judgement with reference to the particular circumstances of the case.
7. The appeal building is a steel framed dutch barn with a curved corrugated steel-clad roof and elevations consisting of corrugated steel cladding and brickwork. Internally there is a first-floor element to one end. The structural assessment demonstrates that the existing steel frame of the barn is suitable to support the first-floor of the proposed development and new roof panels. There is no evidence to the contrary before me. The appellant has also indicated that much of the existing steel cladding could be retained, as well as the partial brick gable wall. I can see no reason why the brick wall could not be retained.
8. However, the suggestion that the cladding could remain does not align with my observations at my site visit, during which I observed that the wall cladding was piecemeal in areas with vast parts missing or in disrepair, particularly at lower levels. The roof was in slightly better condition however there were some holes present. A Structural Appraisal and Report, by David Humphreys Limited and dated 10th September 2020, was submitted with the planning application and includes recommendations for the proposal. These include the complete replacement of roof and external wall cladding, new ground floor concrete slab and the replacement of three damaged floor joists. This report also indicates that work is required to make the building watertight. These recommendations confirm my assessment of the building.
9. I acknowledge that the installation of windows, doors, roofs and exterior walls may amount to works reasonably necessary for the building to function as a dwellinghouse. Nevertheless, and even if the existing frame is identified as being in good structural condition, it would only provide a modest amount of help for the proposed development. The totality of the works required, namely the wholesale replacement of the existing exterior walls and roof, would be a fundamental change as none of the original external fabric would remain. I do not therefore consider that the building is already suitable for conversion to residential use as the extent of the building operations would go beyond the definition of what could reasonably be required for the works to constitute a conversion and would be more akin to a fresh build.
10. Parallels have been drawn with the particulars of the development concerned by the Hibbitt case, and other appeal decisions have been referenced.

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

However, as noted above, each case should be determined on its own merits having regard to the particular circumstances. Moreover, I have only been provided with the Inspector's decisions for the other examples therefore I cannot make a fully reasoned comparison.

11. I note the Council's concerns regarding the curtilage that has been identified within the proposed development. However, given my findings above which lead me to dismiss the appeal, there is no need for me to consider this matter further.

Conclusion

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

H Ellison

INSPECTOR