



Appeal Decision

Site visit made on 2 March 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal Ref: APP/R0660/W/21/3285405

Poultry Shed at Hawksbill Hall, Hollyhurst Road, Wrenbury CW5 8HT

- 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 David Goodyear against the decision of Cheshire East Council.
 - The application Ref 21/4409N, dated 16 August 2021, was refused by notice dated 8 October 2021.
 - The development proposed is the prior approval for a change of use from agricultural to dwellinghouse.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - 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); and
 - If so, whether the location or siting of the building would make it impractical or undesirable for the building to change to a dwellinghouse, having particular regard to noise.

Reasons

Whether the proposal would be permitted development

3. 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 dwellinghouse together with building operations reasonably necessary to enable the conversion. This is subject to various limitations and conditions as set out in paragraphs Q.1 and Q.2 of that Class.
4. Paragraph Q.1.(i) states that development under Class Q(b) is not permitted if it would consist of building operations other than 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 such building operations.

5. Paragraph 105 of the Planning Practice Guidance (PPG) states 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. The *Hibbitt*¹ judgment confirms this approach, as 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.
6. The appeal site relates to part of a substantial building located within a wider holding at Hawksbill Hall. The building is constructed of blockwork and metal cladding. It appears to be of a solid construction and structurally sound. There is no evidence before me to suggest to the contrary. I was unable to enter the building due to restrictions relating to a recent avian flu outbreak however, based on my observations of the external condition of the building, I can see no reason why it would not also be of solid construction internally.
7. The proposal would involve an element of demolition in order to divide the existing building into two separate parts. By virtue of this separation and other alterations to the side elevations, new exterior walls would be required as well as the insertion of windows and alterations to the roof. The extent of the proposed works would be moderate in scale and would not significantly alter the general form and appearance of the building so as to amount to a fresh rebuild. It would be quite clear that the resultant dwelling was a conversion of a former agricultural building.
8. Therefore, I consider that the extent of the proposed works and the partial demolition would be reasonably necessary in order to convert the agricultural building into a dwellinghouse and that they fall comfortably within the categories in paragraph Q.1(i). Accordingly, the proposal would represent a permissible conversion, compliant with Class Q(a) and (b) of the GPDO.

Location and siting

9. Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to a condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required for a number of matters. The Council are namely concerned with Q.2.(1)(e), which requires consideration of whether the location or siting of the building makes it otherwise undesirable for the building to change from agricultural use to a dwellinghouse, due to the noise from the existing poultry use. Q.2.(1)(b) relates to the noise impacts of the development itself which is not determinative in this instance.
10. The PPG² states that the term undesirable reflects that it would be harmful or objectionable and that the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or

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

² Paragraph: 109 Reference ID: 13-109-20150305

chemicals. Determining whether a location is undesirable calls for an exercise of planning judgement.

11. I do not know the full extent of the existing poultry operations including any associated comings and goings, hours of operation, the use of machinery and the use of the large fenced field surrounding the building. Nevertheless, it seems to me that this use could be noise intensive, both in terms of general operations and from the poultry itself, and future occupiers would likely experience some activity associated with it, particularly during summer months when they would spend more time in the garden and have windows open. In the absence of any noise assessment or details of noise insulation of both the remaining building and the appeal dwelling I cannot be certain that any impacts could be appropriately mitigated. I am not therefore satisfied that future occupiers would be unaffected by the adjacent use and provided with satisfactory living conditions.
12. Within the original application the appellant stated that the remainder of the building would be removed, however they have since clarified that it would be retained and used for general storage. There is no further information in this respect and it is not within the terms of the appeal proposal. It is therefore unclear what type of storage would occur in the remaining building, how this would be accessed and whether this would in itself require planning permission. I am unaware of any mechanism by which this would be achieved. Nevertheless, even if it were to be used for storage purposes, given the close proximity of the building and that of the access route, along with a lack of noise assessments, I am not convinced that this use would be compatible with the proposed residential use.
13. The appellant has provided examples of other dwellings in close proximity to farm buildings elsewhere. Based on the very limited information, provided in the form of listings of properties for sale, I cannot make a fully reasoned comparison between them and the appeal proposal and thus they do not justify the proposed development.
14. I therefore conclude that the location and siting of the building makes it undesirable for it to change from an agricultural use to a dwellinghouse, in terms of the effect on the living conditions of future occupiers, with particular regard to noise. This would bring conflict with paragraph 130 f) of the National Planning Policy Framework which seeks a high standard of amenity for future users. The lack of comment from the Council's Environmental Health team with regards to noise does not cause me to alter my conclusion.

Conclusion

15. Although the proposal would satisfy the requirements of Class Q(a) and (b) of the GPDO, the location of the agricultural building makes it undesirable for it to be used as a dwellinghouse in terms of its effect on the living conditions of future occupiers of the proposed dwellinghouse, having particular regard to noise. The appeal should not therefore succeed.

H Ellison
INSPECTOR