



Appeal Decision

Site visit made on 28 February 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2022

Appeal Ref: APP/Y0435/W/21/3280922

Northey Farm, London Road, Bozeat, Wellingborough NN29 7NP

- 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.
 - The appeal is made by Mr Marcus Pibworth against the decision of Milton Keynes Council.
 - The application Ref 21/01755/PANAGC, dated 26 May 2021, was refused by notice dated 28 July 2021.
 - The development proposed is for the change of use of agricultural building to a larger dwelling house.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr Marcus Pibworth against Milton Keynes Council. This matter is the subject of a separate decision.

Preliminary Matters

3. The description on the application form and appeal form are slightly different to the version I have used in the banner heading. I have altered the description to more clearly relate to the proposal only, without prejudice to any party.
4. This appeal relates to Schedule 2, Part 3, Class Q of the GPDO. Class Q (a) 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 Class C3 use (dwellinghouse). Provision (b) consists of development referred to in paragraph (a) together with building operations reasonably necessary to convert the building.
5. It is disputed between parties whether the scheme only proposes works that are reasonably necessary for the conversion to take place. Paragraph Q.1(i)(i) enables the creation of windows, doors, roofs or external walls (aa) and water, drainage, electricity, gas or other services (bb) and other works that are deemed to be reasonably necessary for the building to function as a dwellinghouse.
6. It is also disputed whether the proposal would remain within the limits of the existing building. Paragraph Q.1(h) excludes development that would result in the external dimensions of the building extending beyond the external dimensions of the existing building.

7. The remaining limitations of paragraph Q.1 are not contested between main parties. Furthermore, it is not disputed that the proposal would accord with the conditions as set out by paragraph Q.2. I see no reason, in evidence, to disagree with the Council's conclusions on these other matters.

Main Issue

8. Consequently, the main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q.1(i) and (h) of the GPDO.

Reasons

External works

9. The provision of solar panels and an air source heat pump (ASHP) would result in works that would take place outside the envelope of the existing building. The solar panels would be fitted above the roof proposed to be replacement and would patently extend the dimensions of the building beyond its existing roof plane. The ASHP is shown adjacent to the ground floor layout plan but is not shown on the accompanying elevations. Therefore, this would be beyond the external dimensions of the building and appears to be unattached to the building. It also seems that the ASHP may fall outside the defined curtilage of the barn. As this matter is not clear, but outside the building, the ASHP would not be permitted development under Class Q.
10. Paragraph Q.1(i)(bb) allows for "the installation or replacement of water, drainage, electricity, gas or other services required to the extent reasonably necessary for the building to function as a dwellinghouse". This therefore consists of an open list. The GPDO does not define other services. The solar panels and ASHP would serve the dwelling as alternatives to more conventional power sources and could fall within the definition of 'other services'. However, for the development to be permitted development it would need to comply with all matters listed by paragraph Q.1. Accordingly, the proposed solar panels and ASHP would extend the exterior dimensions of the existing building and hence would fail to comply with paragraph Q.1(h).
11. Turning to the works affecting the canopy, the GPDO does not define a building as so therefore the definition within the 1990 Town and Country Planning Act applies. This explains, at s336(1) that a building would "include any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building". The canopy is an integral element of the main roof and on this basis is part of the building. Therefore, to infill the space beneath the canopy would constitute works within the footprint of the existing building, without extending it. As a result, would involve works that would fall within paragraph Q.1(h).

Structural matters

12. Paragraph 105 of the Planning Practice Guidance states that the Class Q right assumes that the agricultural building is capable of functioning as a dwelling. It is therefore not the intention of Class Q to allow rebuilding work which would go beyond 'reasonably necessary'. The question of whether a proposal would be a conversion or rebuild is central to whether the barn is capable of conversion. Furthermore, a rebuild would not necessarily follow total demolition, it is instead a test of substance and planning judgement.

13. The barn consists of a combination of brick and cement fibre sheet walls, with cement fibre roof sheeting. Its structure is formed by a portal steel frame and the building rests on a concrete floor slab. Its front is open sided and includes a projecting canopy.
14. The appellant's structural survey¹ found that the external walls would be retained. Part of the rear wall of the barn has been slightly damaged, with a section that bulges outwards and would require a local repair. The survey found that the structure was sound and capable of accommodating the additional load of the proposed roof and external cladding. It also identified that the brickwork walls, that are about 1.6 metres high and around 4 metres high on the south elevation, could be retained. This aligns with my own observations on site. The survey has been undertaken by a suitably qualified building surveyor. As such, I attach substantial weight to the conclusions of the survey which have not been contested by the Council.
15. The west elevation would be infilled with external wall cladding and supporting framework. The roof covering would be replaced with powder coated standing seam roof panels and the external cladding would consist of stained black weatherboarding. Although these proposed works would be relatively significant, all of the support structure and most of the walls would be retained as elements of the converted building. Works proposed to replace the roof and add new purlins appear to be necessary to enable the barn to be converted. The addition of external cladding, over all external walls, would not be absolutely necessary. Nevertheless, whilst several cladding solutions are available, the proposed approach would result in a coherent design and is one that a reasonable person might choose. As such, the proposed works would be reasonably necessary to allow the building to function as a dwelling.
16. Accordingly, I am satisfied that the works would amount to conversion rather than rebuild. Also, as this case has been raised by main parties, I come to this view mindful of the High Court judgement in the case of *Hibbitt v SSCLG* (2016). My conclusion is partly informed by the fact that the starting point for the proposed conversion would not be a skeletal structure as in the *Hibbitt* case. Therefore, in consideration of the extent of retention and structural stability of the building, the barn would be capable of conversion without substantial rebuilding. As such, the proposal would relate to works that would be reasonably necessary to convert the building in accordance with paragraph Q.1(i).

Conclusion

17. For the above reasons, the appeal is dismissed.

B Plenty

INSPECTOR

¹ Building Survey, by Robinson and hall, dated May 2021