



Appeal Decision

Site visit made on 9 March 2022

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2022

Appeal Ref: APP/F2605/W/21/3279448

Roughlands Farm, Grove Road, Old Buckenham NR17 1PJ

- 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 R Richards against the decision of Breckland Council.
 - The application Ref 3PN/2021/0013/UC, dated 23 February 2021, was refused by notice dated 22 April 2021.
 - The development proposed is described as "Prior Approval for Change of use of Agricultural Building to a Dwelling (permitted development) The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 3, Class Q."
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. 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.
3. 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.
4. The Council considers that the condition of the appeal building is such that the building operations necessary for the building to function as a dwellinghouse would exceed the scope of works permitted by Class Q. Furthermore, in its decision notice, the Council included a refusal reason relating to the provision of adequate natural light to habitable rooms. In its appeal submission, the Council indicated that floor plans submitted by the appellant in support of the appeal satisfactorily demonstrate the provision of natural light to all habitable

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

rooms as required by Class Q.2.(1)(g) and this reason for refusal is no longer pursued.

5. Consequently, the main issue is 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 a dwellinghouse, having particular regard to the requirements of Class Q Paragraph Q.1.(i).

Reasons

6. 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.
7. 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.
8. 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).
9. The appeal building is of steel frame construction. It is open fronted and where present the walls are made of concrete blocks in the lower part, which vary in height, with spaced vertical timber cladding covering the area between the walling and the roof above and in some parts the concrete block walls too. There is a dirt floor, and the roof is clad with fibre cement sheeting. The existing block walls and steel frame would be retained but the proposal would require, amongst other building works, the timber cladding to be removed and replaced, a new wall to be erected at the front of the building and the installation of a new roof, ground and first floor.
10. In light of the appellant's structural evidence, which has been prepared by suitably qualified professionals, I have no reason to question the overall structural integrity of the steel frame, or the presence of its foundations and the conclusion that it would be sufficiently robust to support the cladding and other works necessary to create a new dwelling. However, this alone does not convince me that the proposal would amount to a conversion.

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

³ Hibbitt v SSCLG [2016] EWHC 2853

11. On the basis of what I saw on my site visit and the evidence before me, there would be very little of the existing building utilised. A substantial proportion of the building would have to be replaced in order for it to function as a dwelling. In this regard the totality of the works required to ensure the building would be capable of habitation would amount to a comprehensive rebuild. The steel frame and blockwork alone do not allow the building to function as a dwelling house, being the starting point assumed by the permitted development rights as set out in the PPG.
12. I acknowledge that works to the interior of the building do not constitute development and it is clear that complete demolition of the building is not proposed. I also note the Inspector's findings in respect of the previous appeal. However, although I accept that the evidence has addressed their concern in respect of the ability of the steel frame to take the load of the proposed roof, they did not reach any overall view that in all other respects they would have considered the proposal acceptable. The previous appeal decision does not lead me to find in favour of the proposal.
13. In the context of Hibbitt, I consider, as a matter of fact and degree, that the proposed development would amount to substantial rebuilding. 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 what is reasonably necessary for the building to function as a dwellinghouse. On this basis the proposal would not satisfy the requirements of paragraph Q.1.(i) of the GPDO.
14. For the reasons given above, the proposed development is not permitted under Class Q.

Other Matters

15. I note the support for the proposal including concerns raised regarding the impacts of rising house prices and potential local impact of the second homes market. However, I am only able to make a decision on the basis of the criteria set out under Class Q and I do not therefore consider these matters further.
16. My attention has been drawn to two appeal decisions which the appellant considers lend support to the appeal proposal. However, whilst I note some apparent similarities with the appeal proposal, I also note differences in the designs of the original buildings and the levels of works involved. This limits the weight that I afford them, and they do not lead me to a different conclusion on the appeal proposal which I necessarily determine on its own merits.

Conclusion

17. For the reasons given above, I conclude that the proposal is not permitted development and the appeal is, therefore, dismissed.

S Tudhope

INSPECTOR