The Planning Inspectorate

Appeal Decision

Site visit made on 24 May 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th June 2022

Appeal Ref: APP/H1840/W/21/3287767
Manor House Nursery, Rectory Lane, Upton Warren B61 7EL

- 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 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 Miss J Tranter against the decision of Wychavon District Council.
- The application Ref 21/02306/GPDQ, dated 29 September 2021, was refused by notice dated 19 November 2021.
- The development proposed is described as "Notification for prior approval for the proposed change of use of an agricultural building to one dwelling house (Class C3) and associated operational development."

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the '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) together with building operations reasonably necessary to convert the building to a dwellinghouse.

3. The Council has raised no concern about the prior approval matters set out in paragraph Q.2(1) (a) to (f). However, a determination must first take place as to whether the proposal constitutes permitted development under paragraph Q.1.

Main Issue

4. The main issue is whether the proposal would be permitted development, with particular regard to whether the requirements of paragraph Q.1(i) of the GPDO would be met.

Reasons

5. Building works are allowed as part of Class Q to convert agricultural buildings, but paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. Development 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 necessary to carry out building operations allowed by paragraph Q.1(i)(i).

6. The Planning Policy Guidance (the 'PPG') provides some clarification[1] as to what works are permitted. At the outset, the permitted right assumes that the agricultural building is capable of functioning as a dwelling. The right then permits 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.

7. The PPG goes on to state 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. 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.

8. Whether building works are reasonably necessary is a planning judgement based on the existing building, the scope and extent of the proposed building operations and the facts of the case. It was held in the *Hibbitt*[2] High Court Judgement that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building.

9. The existing single storey building comprises a semi-exposed skeletal steel frame around which are concrete block walls that rise up only to about half the height of the sides of the building, leaving the building effectively half open. On the fourth side there is a gap in the block wall to allow access into the building. The building therefore is not enclosed by full height walls on any side. There is a mono-pitch fibre cement roof and a concrete floor.

10. On my visit I observed that the steel frame, blockwork walls, fibre cement roof and concrete floor appeared to be in generally good condition. This has been confirmed by the submitted professional Structural Survey and the Construction Method Statement, which found them to be stable and suitable to refurbish. Furthermore, the existing steel frame is found to be capable of taking the proposed loads without the need for strengthening works.

11. The proposal seeks to convert the building into a single-storey, two-bedroom dwelling. The proposed building works, as described and shown on the submitted plans, would infill the gaps above the block work walls on all sides of the building with horizontal timber cladding or glazing. This would effectively amount to enclosing half the building and its skeletal steel frame with new sides. New window and door openings would also be installed in the new timber cladding and full height glazed doors would also be installed. The existing fibre cement roof would be retained, but the polycarbonate rooflights would be replaced. Stud walls and insulation would be applied to the inside of the building to make it habitable. No new structural alterations or additions would be required. The fact that a previous Class Q application for the building had more glazing and a replacement roof has no bearing on my assessment of the appeal proposal before me.

[1] Paragraph 105 ref ID: 13-105-20181615
[2] *Hibbitt and another v SSCLG & Rushcliffe BC* [2016] EWHC 2853 (Admin)

12. The existing building is semi-open and skeletal and, in my view, is not suitable for conversion without substantial building works. The extent of the proposed building operations would amount to more than would be reasonably necessary to convert the building into a dwelling.

13. Accordingly the proposal would not consist of building operations reasonably necessary for the building to function as a dwellinghouse and hence would not meet the criteria set out in relation to Class Q.1(i)(i) of the GPDO and would not be permitted development.

14. A number of 'Class Q applications' have been brought to my attention, some of which the Council has commented on. Whilst I have been provided with some of the delegated reports, plans and photographs, these example decisions relate to the decision-makers' interpretation of Class Q paragraph Q.1(i) and the PPG, including consideration of any accompanying information and evidence, and the application of planning judgement pertinent to each set of circumstances. Whilst consistency in decision making is important, all decisions turn on their own particular circumstances based on the facts before each decision-maker at the time. Whilst there are some similarities and differences, none of the examples include the need to infill half of each side of the building and hence are not directly comparable to the appeal proposal before me. In any event, I have to reach my own conclusion on the appeal proposal on the basis of the evidence before me.

Conclusion

15. For the reasons given, and based on the evidence before me, I conclude the proposal does not meet the criteria set out in Class Q.1(i)(i) and hence is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Consequently, it is development for which an application for planning permission would be required.

16. The appeal is therefore dismissed.

K Stephens
INSPECTOR