



Appeal Decision

Site visit made on 7 June 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th June 2022

Appeal Ref: APP/A2470/W/21/3284377

Town Park Farm, Oakham Road, Brooke LE15 8DG

- 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 Paul Chenery against the decision of Rutland County Council.
 - The application Ref 2021/0446/PAD, dated 6 April 2021, was refused by notice dated 19 July 2021.
 - The development proposed is 'two-bed single storey farm/equestrian workers cottage from redundant agricultural building'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The planning application form provides an extensive description of the proposed works. In the interests of conciseness, I have used the first sentence of that description for the purposes of my banner heading. However, I have taken the supporting text on the application form into account as part of my assessment.

Main Issues

3. The main issues are:
 - (i) 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
 - (ii) If so, whether the location or siting of the building would make it impractical or undesirable for the building to change to a dwellinghouse.

Reasons

Whether the proposal would be permitted development

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 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.
5. 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.
 6. 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 Hibbitt¹ 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.
 7. The appeal relates to a simple timber framed, flat roofed, agricultural building. Two elevations are enclosed by timber slats. The roof consists of corrugated metal sheeting. A stone base floor was partially visible at the time of my visit. However, two sides of the building are substantively open, only partially enclosed on one of these sides by some lightweight netted fabric. Even if previous timber slats have been removed from these sections, given the extent of the open parts of the building, the agricultural building would not currently be capable of functioning as a dwellinghouse.
 8. The appellant's description of the existing structure primarily focuses on its above ground visible elements and notes that it has withstood previous extreme weather events. However, this does not necessarily mean that the building is structurally capable of being inhabited as a dwelling. Substantial parts of the dwelling's walls would be new. I would have expected the structural information to be more robust and to have been verified by a suitably qualified professional. This could have included for example a detailed investigation of the footings to establish whether below ground works would be required. Structural calculations could also have been included to demonstrate that the specific loading associated with the proposed walls, as well as the doors and windows to be inserted, could be supported without any significant structural interventions.
 9. Given the above, I cannot be certain that the new loading requirements could be supported by the existing structure. Taken together with the extent of new walling required to enclose the building and make it watertight, I am not persuaded that building operations which would go beyond those considered reasonably necessary for the building to function as a dwellinghouse would not be required.
 10. I conclude that I cannot be satisfied that the development falls within the terms of the permitted development rights under Class Q.1(i) of the GPDO.

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

11. As I have found that there is insufficient information provided to demonstrate that the proposal would be development permitted under Class Q(a) and (b), it has not been necessary to consider the detailed prior approval matters under Paragraph Q.2, including that set out under the second main issue.

Other Matters

12. The appellant contends that the Government has acknowledged that there is a continuing need for additional housing in rural areas and for housing that is more affordable for rural families. They also suggest that the building would be environmentally friendly, both in terms of the materials that would be used, and through its occupation by a worker on the farm which would reduce the need to travel. I also saw for myself the discreet positioning of the building set away from the nearest houses and rights of way. Even so, such matters are not material to an assessment against the requirements of the GDPO.
13. The appellant also suggests that an offer to discuss planning obligations was ignored by the Council. Given no planning obligation or draft heads of terms are before me, it is not entirely clear what this might have entailed. In any case, a planning obligation would not overcome the requirements of the GDPO to establish whether or not a building is capable of conversion before prior approval is granted.
14. My attention has been drawn to a prior approval given by the Council for the conversion of a building at Ayston. However, I am not aware of the precise details of that particular application. Therefore, this does not alter my conclusion in respect of the appeal proposal which I have assessed on its own merits.

Conclusion

15. For the reasons set out, the appeal is dismissed.

M Russell

INSPECTOR