
Appeal Decision

Site visit made on 28 June 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2022

Appeal Ref: APP/R0660/W/22/3294453

Whetstone Edge Farm, Sandbach Road, Wall Hill CW12 4TE

- 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 & Mrs J Gomez against the decision of Cheshire East Council.
 - The application Ref 21/4138C, dated 30 July 2021, was refused by notice dated 18 November 2021.
 - The development proposed is the change of use of an agricultural building to a dwellinghouse (Use Class C3) and associated operational development.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr & Mrs J Gomez against the decision of Cheshire East Council. This application is the subject of a separate Decision.

Procedural Matter

3. Part 3 of Schedule 2, Class Q of the GPDO provides that 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 to the Use Classes Order, together with building operations reasonably necessary to convert the building to a use falling within Class C3 is permitted development under Class Q.(b) subject to the conditions, limitations and restrictions set out within paragraph Q.1. (a) to (m) inclusive.

Main Issue

4. The main issue is whether the proposed development complies with the conditions, limitations or restrictions applicable to development permitted by Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

5. Paragraph Q.1. (i) of the GPDO permits the installation or replacement of windows, doors, roofs or exterior walls 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 works. The Planning Practice Guidance (PPG) provides further guidance in this regard, establishing 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’.

6. The host property is a modest sized agricultural building which has a rectangular floorplan with a roof that has an asymmetrical cross section. The side and rear walls comprise of blockwork wall for 6 courses with timber panelling supported on a wooden frame above. The front elevation consists of 6 large metal doors supported on steel posts. The roof is predominantly corrugated fibre cement sheeting within which there are a number of corrugated plastic sheets. It is single storey building with a narrow concrete threshold beyond which there is a compacted soil floor.
7. The proposed works include a replacement roof, internal wall insulation and internal timber stud walls, the replacement of the existing steel doors on the front elevation with new door and window openings and associated infill timber panels, new window and door openings to the side and rear elevations and new rooflights on the rear roof slope. I find that these elements of the proposal are reasonably necessary for the building to function as a dwellinghouse and fall within the scope of the building operations permitted under paragraph Q.1(i) of the GPDO.
8. The visual Structural Report (SR) concludes that the building is suitable for conversion without structural modification that would change its general arrangement but indicates that some enhancements would be required to facilitate residential use.
9. The existing roof which comprises of fibre cement sheets would have to be removed and replaced by ‘similar profile sheet roofing’ with insulation added. The SR indicates that the proposed roof construction would be slightly heavier than the existing. As a consequence, some additional structural work, including strengthening or supplementing the existing purlins, and the possible enhancement of the timber trusses, would be necessary. However, the full extent of the works required is not quantified, no structural calculations are provided, and the manner in which the work would be undertaken has not been specified. Consequently, I am unable to conclude that the works could not be carried out without having a significant impact on the existing roof structure.
10. The appellants assert that the foundations to the blockwork walls are likely to be adequate to support any increased loading arising from the proposal. However, they accept that further investigations would be required to determine the size of the existing foundations, and the ground conditions, to assess whether additional support would be required. In this regard I note that no intrusive investigations, including trial excavations, had been undertaken to ascertain the extent of the existing foundations. For my part I was unable to ascertain, on my site visit, what the existing blockwork wall was founded on. Therefore, whilst underpinning of the existing blockwork walls may be a possibility, I have no assurance that the works could be undertaken without a significant adverse impact on the existing structure with the possibility that substantial rebuilding would be required.
11. According to the SR a new ground bearing floor slab would also be required to replace the existing floor. From my observations I agree that this would be a

necessity in order for residential occupation to occur. In this regard I have taken into account the appellants argument that the construction of a new concrete ground bearing floor slab would be relatively straightforward. Although the full consequence of undertaking this work is not clearly defined, I accept that it would not be considered development and would fall within the allowance provided by paragraph 105 of the Planning Practice Guidance.

12. The SR also identifies that some additional secondary structure, involving trimming timbers or small section steelwork, to frame the new window and door openings would be necessary. I find that these works would constitute works required to provide the new doors and windows, and consequently they would constitute works reasonably necessary for the conversion of the building to residential use.
13. Notwithstanding the above, and based on the SR, these works are likely to be internal, and hence would not constitute development. However, in the absence of further detail relating to the roof and external walls I cannot be certain that that will be the case. Moreover, I cannot be certain that the building is sufficiently structurally sound to support the works required to convert it, without the need for significant rebuilding.
14. In reaching this judgement I have taken into account the appeal cases referred to me by both parties and, where appropriate, the response given. Full details of all of those schemes are not before me, however the works associated with those examples appear, as a matter of fact and degree, to vary in terms of the type of building and scale of structural works proposed. Consequently, I find that they are not directly comparable to this appeal.
15. In order to benefit from the permitted development rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must involve only building operations reasonably necessary to convert the building in accordance with the definition at Class Q(b) and paragraph Q.1(i). Based on the evidence before me, it has not been demonstrated that the required works would be limited to building operations reasonably necessary to convert the building, so as to be permitted development under Class Q. In reaching this conclusion, I have had regard to the judgement in Hibbitt¹.

Other matters

16. The appellants are long time owners of Whetstone Edge Farm, and the conversion of the barn would enable them to downsize and stay in the local area. Whilst noting the appellants aspirations in this regard I must judge the proposed development on its compliance with statute, and not on its planning merits.
17. I note that an extended phase 1 habitat survey & daytime bat survey was submitted as part of the application. The assessment indicates that the risk to Great Crested Newts is negligible, and the host building is considered to offer negligible bat roost suitability. Badgers are not considered to be a constraint on development. Nesting birds were evidenced historically using the barn building with open access. I also note that the proposal has the potential to have an effect on the Midlands Meres and Mosses Phase 1 Ramsar and Bagmere Site of Special Scientific Interest. However, as I have found that the proposal does not

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

fall within the provisions of Class Q, it has not been necessary to address these matters any further. I would furthermore note that, even were the development proposed acceptable in all other respects, that would not alter my overall reasoning that the proposal would not comply with the requirements of statute.

Conclusion

18. For the reasons given above and having considered all relevant matters, I conclude that the proposal is not permitted development and that the appeal should be dismissed.

John Gunn

INSPECTOR