



Appeal Decision

Site visit made on 19 July 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2022

Appeal Ref: APP/D3125/W/22/3291159

Fir Tree Farm, Barnard Gate, Witney OX29 6XE

- 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 (as amended).
 - The appeal is made by Mr and Mrs Kirk against the decision of West Oxfordshire District Council.
 - The application Ref 21/03849/PN56, dated 25 November 2021, was refused by notice dated 19 January 2022.
 - The development proposed is described as conversion of an agricultural barn to a dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an application under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), seeking a change of use of an agricultural building to a dwellinghouse, along with building operations reasonably necessary to convert the building.
3. A previous similar application at the site was refused for two reasons. The first reason for refusal related to the building operations exceeding what was reasonably necessary to convert the building to function as a dwellinghouse, so the proposal failed to meet the requirements of Class Q(b) and Q.1(i). The second reason for refusal related to the red-lined application area exceeding the extent of land defined as curtilage by paragraph X of Part 3 of the GPDO and so the proposal fell outside of Class Q(a). Therefore, the proposal was not considered to be permitted development. A subsequent appeal was dismissed.
4. This appeal relates to a revised scheme with a smaller site area, along with retention of exterior materials and fewer windows. The revised scheme, which is subject to this appeal, was refused only on the basis that the building operations exceeded what was reasonably necessary to convert the building to function as a dwellinghouse. The Council delegated report states that they are satisfied that the reduced curtilage is acceptable and accords with Part X of the GPDO. On the basis of the information presented with this appeal, I have no substantive evidence that would lead me to conclude any differently. Therefore, as it was not a reason for refusal of the application subject to this appeal, I will not consider issues related to the site area or curtilage.

5. There is no dispute that the proposal subject to this appeal would meet the requirements of Class Q, paragraphs Q.1(a) to (h) and (j) to (m). There is also no dispute that the proposal would be able to meet the conditions set out under Class Q, paragraph Q.2.
6. The appeal submission from the appellant makes several references to the previous appeal. However, the proposal has changed and this appeal is not an opportunity to reconsider the previous scheme or the previous appeal. That said, I have had regard to the previous appeal decision, in so far as details have been provided, and my decision is consistent with it in terms of the application of case law, policy and guidance. However, I have made my decision on the basis of the plans and documents which relate to the proposal subject to this appeal.

Main Issues

7. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Reasons

8. Class Q(b) of the GPDO permits building operations reasonably necessary to convert the building to use as a dwelling. Paragraph Q.1(i) further specifies 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 dwelling.
9. The Planning Practice Guidance (PPG)¹ sets out that under Class Q the permitted development right 'assumes that the agricultural building is capable of functioning as a dwelling' and 'it is not the intention of the permitted development right to allow rebuilding works 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'.
10. The PPG is supported by relevant case law² to which I have had regard. The caselaw established that Class Q(b) only permits building operations necessary to convert the building, and therefore if a development does not amount to a conversion it cannot benefit from Class Q(b). Furthermore, the case law confirmed that whether a proposal constitutes a conversion or a rebuild is a matter of planning judgement and the nature and extent of the proposed building operations are a relevant consideration in making that assessment.
11. The agricultural building subject to this appeal consists of walls of metal profiled sheeting and a polyfibre roof with some transparent sections. The building is supported by a simple internal metal frame and is sited on a concrete slab. It has a pedestrian door plus large doors on each of the two long sides.

¹ Paragraph 105 Reference ID: 13-105-20180615

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

12. The plans show that the proposed dwelling would retain the existing exterior materials, with the insertion of 14 windows, 2 single doors and a set of double doors. It is unclear from the drawings how the existing large door openings would be sealed but it would seem to require the replacement of significant sections of the metal sheeting. Given that the buildings structure is largely provided by the frame rather than the exterior materials, significant works would be required to enable the proposed doors and windows to be inserted into the metal profile sheeting and supported and sealed.
13. Limited information has been provided regarding the building operations which are proposed. A brief structural inspection report provided with the appeal notes that additional steel beams spanning between the existing steel frame would be required, with intermediate timbers installed between them to allow for a first floor. The plans indicate that further works would provide thickness to the walls, as well as providing a first floor and internal dividing walls. Internal works are not generally development and the PPG states that for the building to function as a dwelling it may be appropriate to undertake internal works, including to allow for the insertion of upper floors, or internal walls, which are not prohibited by Class Q. However, the scale and nature of the works which would be required to facilitate such proposed internal works all add to the overall extent of the building operations.
14. The structural report notes that the existing steel frame appeared able to support the additional load but that the additional steel members would significantly improve the stability of the structure. However, it is unclear on what basis this assessment was made. Beyond noting that new internal walls would be constructed from lightweight material and that insulation, services and finishes applied internally may require additional support spanning between the existing frames, no detail on the works needed or any structural calculations have been provided. I viewed the existing frame during my site visit and superficially it appeared in reasonable condition. Despite this, given the limited number of uprights and spans and the wide spaces between them, it seems that very significant building operations would be required to stabilise and supplement the existing frame to allow for the proposed windows, doors, floor, walls and services to be installed. I have reached this conclusion on the basis of my own observations, in the absence of any substantive evidence to the contrary, which it would be for the appellant to provide.
15. With regard to the foundations, the structural report states that they have 'not inspected any structure below ground level'. It goes on to say that 'from information provided by the client it is expected that the existing foundations will be capable of supporting these additional loads'. I have not been provided with a copy of the information the client provided for the report and from the wording of the report it seems that an independent on site investigation of the foundations has not been undertaken as part of the structural investigation. Therefore, in the absence of substantive evidence to the contrary, I cannot rule out that additional significant building operations would be necessary to ensure the foundations were able to support the works required.
16. Consequently, even though the stated building operations in this case do not fall outside of those listed in Paragraph Q.1(i), from my own observations and the information provided, the cumulative extent of the work that would be necessary to enable the building to be used satisfactorily for a residential use would be substantial.

17. It has not been demonstrated that the existing building is capable of functioning as a dwelling or that it is already suitable for conversion. Regardless of the retention of the external sheeting the proposal seems to require significant new supporting structures with some help from the original frame of the agricultural building. As a consequence, I am satisfied that the building is not capable of functioning as a dwelling without building work which would go beyond what is 'reasonably necessary' to facilitate a conversion. As this is a fundamental requirement of Class Q, it cannot be overcome by the imposition of conditions.
18. Based on the evidence before me, my own observations, and having regard to case law and the guidance within the PPG, the building operations would exceed what is reasonably necessary to convert the agricultural building to a use as a dwelling. As such, the proposal would not benefit from the permitted development rights set out under Schedule 2, Part 3, Class Q(b) of the Order.

Other Matters

19. I accept that to an extent, all conversions will feature new windows, insulation, stairs, partition walls etc. However, the supporting works necessary to facilitate such changes will vary considerably depending on the existing building and the nature of the proposed works. There may be cases where single skin barns are suitable for conversion under Class Q, but this case has been assessed on its own merits, in light of my observations and the evidence provided.
20. I acknowledge reference to other case law and that the relevant test under Class Q is that works are "reasonably necessary", not "absolutely necessary". I have considered the case law and applied the test in this way. I also acknowledge that rights exist outside of Class Q to make changes to agricultural buildings, but these are not relevant to a decision made under Class Q.

Conclusion

21. For the reasons given and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. The appeal is therefore dismissed.

Helen Davies

INSPECTOR