



Appeal Decision

Site visit made on 12 September 2022

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th September 2022

Appeal Ref: APP/L2250/W/21/3273953

Thrift Farm, Straight Lane, Brookland TN29 9QT

- 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 (GDPO) as amended.
 - The appeal is made by Mr S Sullivan against the decision of Shepway District Council.
 - The application Ref 20/2049/FH/PA, dated 18 December 2020, was refused by notice dated 25 February 2021.
 - The development proposed is for prior approval for the change of use of an agricultural building to a residential dwelling (Class C3)
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the description of development from the Council's decision notice since this more precisely and accurately describes the proposal.

Background and Main Issues

3. The national Planning Practice Guidance advises that the starting point for Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) is that the permitted development rights are a grant of planning permission, subject to the prior approval requirements. Therefore, it is necessary in the first instance to determine whether the proposal falls within the scope of permitted development.
4. Class Q of the GPDO states that development consisting of Q(a) 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 (dwelling houses) of the Schedule of the Use Classes Order¹; and Q(b) building operations reasonably necessary to convert the building, is permitted development.
5. 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, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building.

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

6. In this case, the Council concluded that the proposed development would meet prior approval requirements, subject to conditions, other than an objection to the cumulative total of the building works needed to facilitate residential use that would be safe from flooding. The Council determined that the works would go beyond the scope of Part 3, Class Q of the GDPO. In addition, that there would be harm to the living conditions of future occupiers as a consequence of the positioning of new fenestration in the proposed dwelling.

Reasons

Class Q/building operations and flood risk

7. The appeal site is located within flood zones 2 and 3a near to the settlement of Brookland. The appeal building is an agricultural-type barn that is set on a hardstanding behind Thrift Farm House which is surrounded by what appears to be agricultural type land.
8. The proposal is to change the use of the appeal building to a part-rendered, part timber clad, two-storey residential dwelling. The proposed works include installation of new windows and doors. The internal finished floor level would be raised up to a maximum of 300mm from the existing floor levels to mitigate flood risk and a new first floor level would be created.
9. The main parties agree that the barn has been used for agricultural purposes. Following my site visit I see no reason to disagree. Furthermore, it has been brought to my attention that the Council granted a prior approval² for the appeal site for a similar residential scheme to the proposal before me. This is noted. However, even if the Council had come to a different decision about the acceptability of the earlier scheme or not, the fact remains that the permitted works were not completed and this approval has now lapsed. Therefore, although the appellant contends the changes to the scheme are relatively minor, I have considered the proposal before me on its own planning merits.

Class Q limits building operations to the installation or replacement of windows, doors, roofs, and exterior walls. While I accept that the appeal building has an existing hardstanding, the works required to bring the building up to a habitable standard would include the addition of a raised ground floor and the formation of a first-floor level. As the new floor level would have no structural function other than to mitigate flood risk, I am persuaded that the combined works would fall outside the scope of building operations reasonably necessary to convert the building.

I conclude therefore, that the appeal building is not capable of functioning as a dwellinghouse without building operations to ensure that the dwelling would be safe from flooding. As such, the proposed change falls outside the scope of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and planning permission would be required for the change of use.

² Y16/0001/PA

Living conditions

10. Notwithstanding that many buildings have lowered eaves and that rooflights are common-place within a roof space, the appellant has configured the proposal to ensure that the two-storey dwelling would have bedroom and other windows to the side elevations. There would also be floor to ceiling windows in the northern gable elevation.
11. However, as a consequence of the raised floor level and the barn's limited height, there would be non-standard windows at first-floor level that would be below shoulder height. Therefore, in my view, even when sitting or lying down within the rooms the proposal would have awkwardly placed windows that would be difficult to appreciate. Indeed, as a result of their relatively low positioning, the windows would not only restrict outlook from the property, but also hinder easy placement of furniture and be arduous to operate, clean and maintain. Accordingly, the positioning of the proposed fenestration would harm the living conditions of future occupiers.
12. As such, the proposal does not comply with Q.2 (1) (f) of Class Q, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Other Matters

13. While the appellant contends the requirement for raised floor levels to mitigate flood risk impedes barn conversions generally. The proposal is for a two-storey dwelling within a building of constrained height. Therefore, I afford this little weight.

Conclusions

14. For the above reasons I conclude the proposal would not be permitted development under the terms of Class Q of the GDPO and would require the express grant of planning permission rather than consent via the prior approval process. Therefore, the appeal is dismissed.

J E JOLLY

INSPECTOR