



Appeal Decision

Site visit made on 3 November 2022

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/J0405/W/21/3289546

Old Lower Dean Farm, Dean Road, Stewkley, LU7 0EU

- 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), 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 John Stanton against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 21/03584/COUAR, dated 31 August 2021, was refused by notice dated 22 November 2021.
 - The development proposed is prior determination change of use of agricultural building to a dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The permitted development right under Article 3, Schedule 2, Part 3, Class Q(a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) allows the change of use of an agricultural building and any land within its curtilage to a dwelling house together with building operations reasonably necessary to enable the conversion, subject to various limitations and conditions as set out in paragraphs Q.1 and Q.2 of that Class.

Main Issues

3. The main issue is whether the proposed development falls within the terms of the permitted development rights under Article 3, Schedule 2, Part 3, Class Q of the GPDO, with specific regard to the extent of physical works proposed.

Reasons

Permitted Development

4. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It states that 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 reasonably necessary for the building to function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out building operations, as listed above.

5. The Planning Practice Guidance (the PPG) provides further clarification, including 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, such that 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 appeal barn is of single-storey construction with a duo-pitched roof accessed from a single-track country road. With the exception of a low-level brick/block-built wall, the majority of the barn is of timber construction with a metal sheet roof. The internal floor is constructed of loose stone, which is compacted. The proposed external works would see the introduction of new doors and windows with internal works forming a 2 bedroom dwelling.
7. A visual structural inspection report (IR) of the appeal building is provided by DSA¹. In respect of the existing building foundations, the IR confirms that 4 trial holes were excavated around the perimeter of the appeal building to evaluate the existing foundations. Trial holes 1 and 2 showed the foundations to be acceptable. Trial holes 3 and 4 showed a shallow stepped brick footing down to approximately 300mm below ground level. The IR goes on to state that this footing has performed adequately in the past but would likely need to extend down to a depth of 1 m in order to comply with building regulations. Consequently, there is a considerable degree of uncertainty over the adequacy of any existing foundations and their ability to support the conversion works.
8. The appellant argues that many older and traditional barns are unlikely to have significant foundations which comply with current Building Regulations standards. Therefore, if no foundation work is permissible under Class Q provisions, then very few, if any, agricultural buildings would ever pass the test under Class Q as they are not built to residential standards. Nevertheless, strengthening of existing foundations does not fall within the building operations listed under paragraph Q.1.(i) of the GPDO and it has not been demonstrated that the proposed works might reasonably be considered to fall within the definition of 'maintenance, improvement or other alteration' and would therefore be exempt from the meaning of development under s55(2)(a) of the Town and Country Planning Act 1990. Accordingly, as a matter of fact and degree, there is considerable doubt over whether existing foundations are suitable for the proposed conversion without strengthening works on a scale that would fall outside of general maintenance, improvement or other alteration.
9. Consequently, I conclude that it has not been demonstrated that the proposed works would not go beyond works reasonably necessary to convert the building to residential use. Therefore, the proposed development would not comply with paragraph Q.(b) of Schedule 2, Part 3, Class Q of the GPDO. Subsequently, it is not necessary for me to consider whether the proposal would meet the qualifying conditions in Paragraph Q2 (1) (a) to (g) which amongst other things, include the siting of the building, its external appearance, and transport/access.
10. In reaching my conclusion, I have had regard to the judgement handed down in *Hibbitt v SSCLG* [2016] EWHC 2853 (Hibbitt judgement). The case addressed the extent to which building operations to facilitate residential use

¹ Ref: 20/39402/Revision A

may be considered to amount to conversion of the relevant agricultural building.

Other Matters

11. The appellant's evidence notes that there is a need to provide more housing in England which is supported through the planning system. However, the addition of one extra dwelling would make little difference to the supply of housing in the District. Furthermore, I have found that the appeal scheme would not meet the requirements under the relevant legislation under Class Q for the reasons set out above.
12. I note the appeal decision² provided by the appellant in relation to a Class Q appeal and the Inspectors findings. However, I have dismissed this appeal for other reasons and have not considered this matter further.

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

A Hickey

INSPECTOR

² Ref: APP/J0405/W/18/3212712