



Appeal Decision

Site visit made on 15 November 2022

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/K0235/W/21/3285453

Northey Farm Barns, High Elms, Carlton MK43 7LG

- 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, Paragraph Q.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Mark Asbery against the decision of Bedford Borough Council.
 - The application Ref 21/01549/CPNQ, dated 27 May 2021, was refused by notice dated 21 July 2021.
 - The development proposed is the conversion of agricultural building to one dwelling-house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of their appeal submission the appellant has submitted and referred to an amended site location plan which did not form part of the original planning application. Annex M.1.1 of The Procedural Guide – Planning Appeals – England advises that if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh application. Annex M.1.2 of the same guide further advises that if an appeal is made, the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. In this case, and having regard to the Wheatcroft principles¹, the acceptance of the amended plans would prejudice the interests of the Council and any other interested parties, as I cannot be certain that interested parties have had the opportunity to make comment on the proposed amendments. This appeal has therefore been assessed based on the plans upon which the application was determined.

Background and Main Issue

3. Schedule 2, Part 3, Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) states that the local planning authority may refuse a prior approval application where the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

4. Schedule 2, Part 3, Class Q. (a) of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Use Classes Order. Class Q. (b) permits building operations reasonably necessary to convert the building referred to in paragraph (a).
5. 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.
6. The main issue is whether or not the proposed development would be permitted development under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to the extent of the proposed residential curtilage and the extent of building works required.

Reasons

7. The appeal site comprises a large barn, split into a number of uneven bays. The parts of the building which are proposed to be retained and converted to form a dwellinghouse, are two of the middle bays. These are metal framed, and excepting from the ends of the 2 arched roof sections, are open sided. The roof is clad with corrugated sheet metal. Excepting the sections of concrete pad within which the metal columns are encased, the visible ground within the barn is of compacted earth and rubble.
8. For the purposes of Class Q, paragraph X of Schedule 2, Part 3 of the GPDO, states that "curtilage" means, the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or, an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.
9. Both main parties agree that due to the inclusion of the entirety of the existing agricultural building within the site area, the area of curtilage would exceed that required for compliance with Paragraph X. I have no reason to disagree.
10. Consequently, with particular regard to the extent of the curtilage, the proposed development does not benefit from deemed permission under Schedule 2, Part 3, Class Q of the GPDO.
11. Paragraph 105 of the Planning Practice Guidance² (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. It further indicates 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.
12. Having regard to the Hibbitt High Court Case³, the main parties dispute whether the extent of building operations required to enable the building to function as a dwellinghouse would amount to conversion, or whether they

² Paragraph: 105 Reference ID: 13-105-20180615

³ Hibbitt and Another v SSCLG & Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

would be of a scale that would constitute a rebuild or fresh build. In the Hibbitt case the agricultural building was broadly open to three sides and would have been largely stripped back to its frame. In these respects it had similarities with the barn subject of this appeal.

13. Whilst it is proposed that the metal columns and trusses would be retained, the existing sheet roof would be replaced, and an external timber frame would be installed on a block and beam floor. The external walls would then be clad and insulated, and doors and windows would be installed. Notwithstanding the appellants claim that no works are proposed internally to the roof structure, within the structural survey submitted in support of the appeal it is indicated that the steel purlins would need replacing. It is further indicated that perimeter foundations would be required to support the walls, and that the stiff new first floor plate in conjunction with the internal walls or columns would provide wind stability for the building. The extent of these proposed works is significant.
14. Within the structural appraisal submitted in support of the appeal it was found that the frame would be able to carry the anticipated loads with no significant alterations, However, aside from the columns and roof trusses, little of the original building would be retained. The amount and magnitude of the building works required to enable the building to function as a dwelling house, would therefore go well beyond what could reasonably be described as necessary for the conversion of the building.
15. In the absence of any convincing evidence to the contrary, the proposed development would not therefore benefit from deemed permission for the change of use of agricultural buildings to dwellinghouses as facilitated by Schedule 2, Part 3, Class Q (b) of the GPDO.

Conclusion

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

V Simpson

INSPECTOR