



Appeal Decision

Site visit made on 13 December 2022

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2023

Appeal Ref: APP/Y0435/W/22/3301088

Lane to Pheasants Nest, off the Olney Road, Western Underwood

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Alan Williams against the decision of Milton Keynes Council.
 - The application Ref 22/00236/PANAGC, dated 1 February 2022, was refused by notice dated 29 March 2022.
 - The development proposed is an application to determine if approval is required for the change of use of agricultural building to a larger dwellinghouse.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development from the Council's decision notice and the appellant's appeal form, as this is more concise and accurately describes the proposed development. This is also the description of the proposal as stated clearly at the top of the application form.

Main Issue

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

Reasons

4. Class Q permits 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 Use Classes Order¹ and any building operations necessary to convert the building.
5. 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.

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

6. The Planning Practice Guidance (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. 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.
7. The appeal relates to the majority, but not all, of a concrete portal framed agricultural building that is clad in timber and corrugated sheeting. It has an asymmetrical pitched roof that is clad in corrugated profiled cement sheeting. There is a concrete slab to almost half of the barn's floor which slopes downwards towards an opening, with the remainder of the floor being soil. The proposal to convert the building would include the use of structural insulated panels (SIP) that will span between/from the existing columns and beams of the portal frame or supported off the existing concrete slab, and the laying of a new concrete slab with a thickened edge where one is currently absent which would support a proposed mezzanine structure independent of the external walls and roof of the building envelope.
8. The Council are concerned that, from the submitted information, the proposal could result in the construction of an independent structure inside the concrete frame, with no reliance on the existing frame except for the roof covering, which would be beyond what would be reasonably necessary to facilitate the conversion. The appellant has provided a structural report of the existing building that concludes the barn is structurally strong enough to take the likely loading needed for the building to function as a dwelling. In addition, a sectional drawing has been submitted to show the relationship of the SIPs to the existing concrete structure. However, the drawing shows the SIPs positioned adjacent to the existing columns with no annotation depicting they would be attached to these structures, contrary to the appellant's insistence that they would. Even if the SIPs are fixed to the existing concrete structure, this is not the same as clarifying that they are taking the load. The appellant considers the matter is for Building Regulations rather than the consideration of Class Q but suggests an appropriately worded condition could be applied if necessary. However, from the information before me, I cannot be certain that more than the existing concrete structure is not required to facilitate the proposed conversion. Consequently, the proposed development would not comply with Q.1(i)(i).
9. "Curtilage" for the purposes of Class Q is defined at part X as (a) 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 (b) 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.
10. The appeal building is located within an agricultural field, set away from the field gate that provides access from the adjacent lane. The building is separated from the field by a post and rail boundary treatment that is sited adjacent to the building and surrounds its perimeter. The land inside the boundary treatment has an intimate association with the building and differs in character and appearance to the surrounding field. I note that the appellant considers that this land is not the curtilage for the purposes of (a), however, for the reasons detailed above, I find that it would meet the definition of (a).

The site edged red on the submitted drawing includes some of the land contained by the perimeter fencing and extends into the adjacent field. Although extending away from the building, the land is immediately beside and around the agricultural building and is no larger than the land occupied by the agricultural building. This land would meet the definition of (b).

11. Both definitions could be applicable to the proposed development and therefore it is dependant on which is the lesser, to determine the curtilage for the purposes of part X of Class Q. Part W(3)(b) requires the developer to provide sufficient information to establish whether the proposed development complies with any conditions, limitations or restrictions applicable to the development in question. I have not been provided with evidence that clearly demonstrates which area is the lesser and therefore I am unable to confirm whether the proposal is permitted development in this regard.
12. In reference to the main issue, I am unable to confirm whether the existing concrete structure is not required to facilitate the proposed conversion, or whether the curtilage detailed by the site edged red meets the definition of curtilage under part X. Consequently, it does not benefit from permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Other Matters

13. The appellant refers to a decision made by North Warwickshire Borough Council that they consider may be relevant to their appeal and state that they may rely on it when making their case. No further reference has been made to this decision in any of the appellant's subsequent statements and therefore I have assumed that it does not form part of the appellant's case. Even if it did form part of the appellant's case, each appeal must be determined on its own merits.
14. Concerns regarding the Council's consistency in handling prior approval applications and the Council's lack of engagement throughout the application process have no bearing on my consideration of the planning merits of the proposed development.

Conclusion

15. For the reasons given above, I conclude that the appeal is dismissed.

A Berry

INSPECTOR