



Appeal Decision

Site visit made on 14 February 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2023

Appeal Ref: APP/P1560/W/22/3295625

Bonds Farm, Holland Road, Little Clacton CO16 9QE

- 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 Byford against the decision of Tendring District Council.
 - The application Ref 21/01370/COUNOT, dated 12 July 2021, was refused by notice dated 27 September 2021.
 - The development proposed is change of use of an agricultural storage building into a dwelling.
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Decision

1. The appeal is dismissed.

Background and Main Issue

1. Class Q (a) of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits the 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 Schedule to the Use Classes Order. Class Q (b) permits building operations reasonably necessary to convert the building referred to in (a) above.
2. The evidence before me indicates that the Council contends that the building operations would not comprise a conversion. Whilst the Council has referred to paragraph Q.1(i) the question of whether a proposal comprises a conversion for the purposes of Class Q precedes any consideration of matters set out under paragraph Q.1.
3. Indeed, the appellant has cited the judgement in *Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin). Paragraph 26 of that judgement states:

'First, the concept of "conversion" is found in the overarching provisions of Class Q (not in Q.1) and it thereby introduces a discrete threshold issue such that if a development does not amount to a "conversion" then it fails at the first hurdle and there is no need to delve into the exceptions in Q.1. It is thus a freestanding requirement that must be met irrespective of anything in Q.1...'
4. The Council also asserts that the proposal would not be permitted development as a result of issues pertaining to noise and location as set out under conditions b) and e) at paragraph Q.2.

5. As such, the main issue in this appeal is whether the proposed change of use and building operations would be permitted development under Schedule 2, Part 3, Class Q of the GPDO and in particular:
- whether the development would comprise a conversion.
 - whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses).

Reasons

2. The existing building comprises of a steel portal frame, a blockwork wall, cement fibre sheets and a concrete floor. The appellant suggests that the blockwork wall would be retained, along with the steel frame. However, the block wall is only 1.5 metres in height and only makes up a very small proportion of the existing walls. My site visit revealed that most of the walls comprise concrete sheeting. I also noted that there are significant gaps in the walls and smaller gaps in the roof. Indeed, the appellant suggests that the cement sheeted walls and the roof would both need to be replaced to facilitate the proposal. As a result, there would be very little of the original building remaining, with only the steel frame, concrete floor and limited blockwork walls retained.
3. The appellant has suggested that the extent of the operational work required is typical of most conversions, given the requirements of building regulations. I accept that conversions often require relatively extensive operational works, such as those listed under paragraph Q.1(i). However, as indicated in the Hibbitt Judgement, there must be a point where operational works stop comprising a conversion and start comprising a new building.
4. Whether or not a building is a conversion is a matter of planning judgement. In this case, the existing building needs significant alterations in order that it would be suitable for residential use. Indeed, the appellant's evidence suggests that very few components of the original building would remain.
5. Whilst I accept that the evidence indicates that the building is structurally sound, that is just one consideration in determining whether or not a proposal comprises a conversion, as is made clear in the Hibbitt Judgement. Indeed, even if assuming that there would be no structurally significant operations, the large physical extent of the new walls and roof would be such that the resultant dwelling would constitute a new building as opposed to a conversion.
6. The appellant implies that because the operational works all comprise building operations listed at paragraph Q.1.(i) they must therefore amount to a conversion. However, whilst operations listed under paragraph Q.1.(i) can comprise permitted development, that does not automatically mean that any building operations comprising walls, doors, a roof and windows must fall within the definition of a 'conversion'.
7. Indeed, the National Planning Practice Guidance outlines 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 under Class Q.

Conclusion

8. Whilst the existing building may be structurally sound and physically capable of conversion, significant and transformative building operations would be required to the extent that very little of the original building would remain. Within this context the necessary building operations would not comprise a conversion for the purposes of Class Q. The proposal is therefore not permitted development.
9. Given my findings it is not necessary to consider matters pertaining to the practicality and desirability of the location for the proposal.
10. For the reasons given, the appeal is dismissed.

Luke Simpson

INSPECTOR