



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: 3rd March 2023

Appeal Ref: APP/P1560/W/21/3284469

Pestles Hall Farm, Crow Lane, Weeley CO16 9AW

- 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 Maviton Ltd against the decision of Tendring District Council.
 - The application Ref 21/00236/COUNOT, dated 10 February 2021, was refused by notice dated 8 April 2021.
 - The development proposed is Conversion of agricultural building into a dwelling.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. 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.
3. The evidence before me indicates that the Council contends that the building operations would not comprise a conversion. Whilst the Council has referred to paragraphs Q.1 and Q.2, the question of whether a proposal comprises a conversion for the purposes of Class Q precedes any consideration of matters set out under these paragraphs.
4. 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...'
5. The main issue in this appeal is therefore 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.

Reasons

6. The existing building comprises an agricultural barn which is predominantly open on three sides. As a result, three completely new exterior would be required. In addition, the evidence before me indicates that the existing roof sheets would be replaced. The submitted plans also show that the side of the building, which is currently walled, would be completely re-clad.
7. In essence, there would be very little remaining of the existing agricultural building other than its structural components (steel frame and foundations) and overall dimensions. The appellant has suggested that this is inevitable with most conversions, given the requirements of building regulations. I accept that conversions often require relatively extensive operational works, such as those listed under GPDO 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. In this particular case, the limited physical extent of the original building combined with the great physical extent of the operational works required, tip the proposal well beyond the upper threshold of what could reasonably be considered to be a 'conversion'.
8. The appellant implies that because the operational works all comprise building operations listed at Paragraph Q1.(i) they must therefore amount to a conversion. However, if one were to apply that logic then a change from a steel frame to a dwelling would be a 'conversion', with walls, doors, a roof and windows all added under permitted development rights. Clearly that is not the intention of the GPDO. 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.
9. Even if I were to accept that the existing building is structurally sound and 'capable' of conversion in that regard (as asserted in the appellant's structural survey¹) this consideration alone is not sufficient to determine that the proposal comprises a conversion. Indeed, whilst the structural integrity of the building is a relevant factor², it is not the only factor in considering whether a proposal amounts to a conversion as is made clear in the Hibbitt Judgement.
10. The appellant suggests that the Council has taken a different approach to other applications for prior approval. However, I have not been provided with the full details of any such decisions and as such this consideration has no bearing on my findings. In any case, whether or not a proposal comprises a conversion will depend on the precise characteristics of the existing building and the scope of operational works proposed. These are both largely unique considerations.

¹ Edward Parsely Associates Ltd, February 2022

² As indicated in the National Planning Practice Guidance

Conclusion

11. Even if it is structurally sound, the existing building would require significant and transformative works to the extent that very little of it would remain and very significant physical components would be added. As such, the proposal does not comprise a conversion and it would not be permitted development under the provisions of Class Q.
12. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR