



Appeal Decision

Site visit made on 23 May 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2023

Appeal Ref: APP/W1525/W/22/3303856

**Building at Rolph's Farm, Blasford Hill, Little Waltham, Chelmsford
CM3 3PA**

- 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.
 - The appeal is made by Mr Phil Cunningham against the decision of Chelmsford City Council.
 - The application Ref 22/00925/CUPAQ, dated 6 May 2022, was refused by notice dated 4 July 2022.
 - The development proposed is change of use of agricultural building to a dwellinghouse.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Mr Phil Cunningham against Chelmsford City Council. This application is the subject of a separate decision.

Preliminary Matter

3. Schedule 2, Part 3, Class Q of the GPDO grants planning permission for development consisting of the change of use of a building and any land within its curtilage from a use as an agricultural building to use as a dwellinghouse, together with building operations reasonably necessary to convert the building.
4. In addition, Paragraph Q.1 of Part 3 places restrictions on the development that can be undertaken. Paragraph Q.1(i) states development would not be permitted where it would include building operations other than: (i) the installation or replacement of – (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by Paragraph A.1(i)(i).
5. Furthermore, in refusing to grant prior approval, the Council included a reason for refusal which relates to whether the proposed development would accord with the restriction set out at Paragraph Q.1(h) which states that development will not be permitted where it would result in the external dimensions of the

building extending beyond the external dimensions of the existing building at any given point.

6. In light of the appellant's submissions, the Council has indicated that it no longer wishes to defend this reason for refusal. Accordingly, I have not considered this particular issue any further in considering whether the proposed development would constitute permitted development.

Main Issue

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

Reasons

8. The building to which the appeal relates is of brick and block construction, with internal metal frame and raised concrete internal areas. The roof, where present, comprises corrugated panels sited directly on wooden purlins, supported in part by the metal frame. I understand from the evidence that the building formerly comprised an agricultural loading dock, and as result, the eastern elevation is largely open.
9. The Planning Practice Guidance ('PPG') sets out that the permitted development rights under Class Q assume that the agricultural building is capable of functioning as a dwelling. Accordingly, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted.
10. However, PPG also states that it is not the intention of the permitted development rights to allow rebuilding work which would exceed what is reasonably necessary for the conversion of the building to residential use. It is only where the building is already suitable for conversion that the building would be considered to have the permitted development right.
11. I am also mindful of *Hibbit and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin) which relates to the difference between conversion and rebuilding in cases relating to Class Q, as if a proposal includes building work beyond what could be defined as conversion it would fall outside the definition of permitted development under this class.
12. The provided structural report concludes that the building is structurally sound and able to sustain loadings from the building operations proposed, which would include a replacement roof structure, infilling of existing windows, infilling of the open eastern elevation and other gaps in brickwork, and the formation of new windows and doors. This report has been prepared by an appropriate professional company; however it makes clear that it is based only upon a visual inspection. As a result, no survey of the foundations had been made, and no inspection of timbering or the metal frame undertaken.
13. The provided plans indicate that the vertical metal frame support columns which currently exist within the building and support, in part, the roof structure, would not be retained. Although the structural report concludes that the new roof finishes and insulation could be accommodated without substantial alterations or reconstruction, it is unclear whether this conclusion

has taken account of the potential removal of elements of the metal framework.

14. It is also unclear whether the removal of these steel columns would require the substantial modification or replacement of the metal frame as a whole, or even an entirely different approach to supporting the replacement roof structure. Such work could increase loadings on the existing structure in the absence of the support currently provided by the steel columns, and there is no information before me with regard to structural calculations or detailed roof design that assesses the effect, if any, that this would have upon the brickwork structure.
15. I was able to see on my site visit that the brickwork of the building appears to be generally sound, and although there are areas of blockwork that would likely require removal and replacement these would not be significant when the overall size of the building is considered and would not amount to rebuilding. Furthermore, whilst I acknowledge that vegetation clearance appears to have taken place around the building since the Council's visit in March 2022, and whilst there is no evidence before me that indicates that the building has any foundations, I do not share the Council's view that the structure has been undermined.
16. However, although the foundations of the building appear to be performing acceptably at present, no detailed investigation of these has been undertaken, which raises further uncertainty with regard to the support of the proposed replacement roof structure following the removal of the steel support columns, if the structure would be reliant on increased loadings on the existing brickwork. Should the provision or modification of foundations be required, this would be likely to entail a significant amount of rebuilding.
17. Accordingly, based on the information before me, I cannot be satisfied that the building operations would amount only to those which would be reasonably necessary to convert the building.
18. I therefore conclude that the proposal would not accord with the requirements of Paragraph Q.1(i) of the GPDO, and consequently would not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Other matters

19. I acknowledge that the Council has previously granted prior approval for the conversion of the building for residential use¹, that these approvals have not been implemented and are no longer extant. The details provided in relation to the scheme approved in 2018 do not indicate that any building operations were proposed or required. Furthermore, the plans provided with regard to the 2105 approval, indicate that that scheme proposed a different internal layout to the scheme which is before me, and would have incorporated a greater level of internal support within the proposed dwellinghouse. The circumstances of these approvals are not therefore directly comparable to the scheme before me.
20. In any event, the judgement as to whether the proposal before me now comprises permitted development is a matter of fact and degree on the particular circumstances of the case, and I have considered it on such a basis.

¹ 15/00821/COUPA & 18/01754/CUPAQ

Conclusion

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

C Harding

INSPECTOR