



Appeal Decision

Site visit made on 31 May 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 August 2023

Appeal Ref: APP/D2510/W/23/3314055

Large barn to the north west of Farr Farm, Farr Farm, Habertoft Lane, Habertoft LN13 9NU

- 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 Nigel Hancock against the decision of East Lindsey District Council.
 - The application Ref N/208/00032/22, dated 7 January 2022, was refused by notice dated 15 August 2022.
 - The development proposed is 'the building is located on the north west side of Farr Farm, Habertoft. Natural light will be provided through the reuse of existing openings where possible and the insertion of new windows into the external envelope. Existing external concrete cladding walls and metal barrier walls to be retained where possible. Existing open boarded vertical timber cladding retained and additional cladding boards added overlapping to fully enclose the envelope. Existing corrugated metal roofing retained where possible. Transparent corrugated plastic roofing added where shown on elevations. Proposed new timber framed windows and doors installed. Proposed new masonry walls. Relevant services installed. New uPVC rainwater goods'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr Nigel Hancock against East Lindsey District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appellant has submitted an amended drawing, reference J1818-PL-90 A02 with the appeal. The Procedural Guide: Planning Appeals – England is clear that the appeal process should not be used to evolve a scheme and that what is considered at appeal is essentially the same scheme that was considered by the Council and interested parties. The scheme would be materially different from that considered by the Council in that it would remove the exterior works and replace them with interior works. If I were to accept the plan, it is possible that interested parties would be prejudiced from commenting. I have proceeded to consider the originally submitted plans.

Main Issues

4. There are three main issues. These are:

- Whether or not the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;
- Whether or not the building would be suitable for conversion and if so, whether or not the development would comprise building operations reasonably necessary to convert it to a use falling within Class C3 (dwellinghouses); and
- whether or not the location or siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses).

Reasons

External Dimensions

5. Drawing number J1818-PL-90 A01, which shows a typical construction section, was one of the drawings upon which the Council made its decision. This clearly shows works beyond the existing elements that were being retained. These works were labelled which confirmed the existing pre-cast concrete panels would be insulated externally, that this would be finished externally with render and that facing bricks would be applied below the new finished floor level.
6. I appreciate the appellant's point that the external enlargements in this respect would not protrude beyond the gutter overhang of the building but the legislative provisions within Class Q specify that, for the development to be permitted, it cannot extend beyond the external dimensions of the existing building at any given point.
7. As a result, the proposal would not satisfy the description of permitted development as set out by the conditions of Class Q.

Building Works

8. Class Q does allow building works to allow the conversion to take place. However, Paragraph 105 of the Planning Practice Guidance¹ confirms 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'. This paragraph also refers to the Hibbitt judgement² which confirms that if a development does not amount to conversion, then the provisions of Class Q do not apply. It also confirms that this is a matter for the exercise of planning judgement.
9. The appeal building is constructed from various materials. One side elevation is constructed at the lower level from concrete panels, the other from metal irregular panels, both with hit and miss timber panelling above. The ends are substantially open but make some use of metal panels at lower level and hit and miss timber panelling at the same height as along the sides. The roof is corrugated sheeting.
10. I do not find that the existing building is suitable for conversion in its current form. None of the elevations of the building provide the enclosure that would

¹ When is permission required Paragraph: 105 Reference ID: 13-105-20180615 Revision date: 15 06 2018

² Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

be necessary for a building to be considered capable of being occupied as a dwelling. While I have no reason to dispute that the building is structurally sound, that is not the requirement of Class Q.

11. Notwithstanding, neither the Structural Engineers Inspection report nor the typical construction section set out the works that would be necessary to those areas of the building clad in metal. There is therefore insufficient information before me to allow me to conclude that the building works would only be those reasonably necessary to allow the conversion.
12. As a result, the proposal would not satisfy the description of permitted development as set out in Class Q.

Otherwise Impractical or Undesirable

13. At the time of my site visit there were structures in active agricultural use in proximity to the appeal site. These would result in it being otherwise impractical or undesirable for the building to be converted to a Class C3 dwellinghouse due to the potential for adverse effects on the living conditions of future occupiers of the proposed dwellings arising from noise disturbance and odour.
14. Schedule 2, Part 3, Paragraph W.(13) allows for the imposition of conditions reasonably related to the subject matter of the prior approval. The structures proposed to be removed are, cumulatively, of considerable scale. Requiring such an extent of demolition would be disproportionate to the limited scale of the proposed development to the extent that I consider it would not be reasonably related to prior approval for the conversion to five dwellings.
15. The appellant has brought other decisions to my attention where it has been held that such a condition is appropriate. However these do not alter my assessment on the facts of this case.
16. Other permitted development rights may exist under which demolition could be carried out. Irrespective of these, I must assess the development against the conditions I find at the time of my site visit.
17. For these reasons, the location and siting of the appeal building would make it impractical or undesirable for the building to be converted to a Class C3 dwellinghouse.

Conclusion

18. Even if I were to find that the prior approval matters and conditions set out in the second and third main issues were acceptable, it would not make the proposed development acceptable since the scheme would not comply with the description of permitted development as set out by Schedule 2, Part 3, Class Q of the GPDO. It is for this reason that the appeal should be dismissed.

J Downs

INSPECTOR