



Appeal Decision

Site visit made on 6 September 2023

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/A1530/W/22/3309924

Nightingale Farm, School Lane, Great Wigborough CO5 7RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Hicks against the decision of Colchester Borough Council.
 - The application Ref 220612, dated 4 March 2022, was refused by notice dated 29 April 2022.
 - The development proposed is conversion of two former agricultural livestock and storage buildings into 3 dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues in the appeal are:
 - i) whether or not the proposals would be permitted development under Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO); and
 - ii) the effect of the development on European designated habitats.

Reasons

Whether permitted development

3. The application concerns two agricultural buildings that were formerly used to house livestock and for storage, and which form part of a group. Some of the buildings in the group have fallen into disrepair and are to be demolished. The Council has approved the conversion of one of the buildings into a dwelling and subsequently approved a new dwelling in lieu of that dwelling.¹
4. The submitted plans identify the buildings that are subject to this appeal as barn 2 and barn 3. Barn 2 is a timber framed building which is clad with timber and has a corrugated metal roof.
5. Barn 3 is an open-sided building which is divided into two parts, consisting of the main part with a dual pitched roof of corrugated sheeting supported on a steel portal frame, with a lower part having a lean-to roof. There are half height concrete block walls at both ends of the lean-to part and at one end of

¹ Refs. 210657 and 213054

- the main part. A concrete block wall of similar height with timber planking above divides the two parts of that building.
6. It is proposed to convert barn 2 into two dwellings. This building has a concrete floor and has low concrete block plinth walls around its perimeter. It has a timber portal frame which is structurally sound. The external timber cladding would be replaced with new timber cladding. Internally the building is boarded with MDF boards which would be replaced with plasterboard and insulation. It has not been possible to ascertain the suitability of the foundations to take the loading from the new walls, doors and windows.
 7. The structural survey notes that while the building is structurally sound, it would be advisable to add strengthening elements to the roof and walls to ensure structural stability.
 8. Taken as a whole, this development would consist of four new external walls, new doors and windows and a new roof covering. There is the possibility that either new foundations or underpinning of existing foundations may be necessary, but this cannot be determined on the information available. The only parts of the original building that would be retained would be the timber portal frame, the concrete floor and possibly the plinth walls. The works required to form the dwellings would be comprehensive such that they would amount to a fresh build rather than a conversion, in my view.
 9. Barn 3 would be converted into a single four-bedroom dwelling. This building is open, and the development would require infilling the open sides with new walls. I noted on my visit that there is a concrete base in the lean-to section and in part of the main section, but there is no base in a significant part of the building. The steel stanchions are likely to be founded in separate foundations. Therefore, this development would require construction of foundations and a floor as well as the new walls, doors and windows on all sides and the new roof material. The total of these elements would amount to a fresh build and would not be a conversion.
 10. Class Q of Part 3 of the GPDO grants permission, subject to limitations and conditions, for development consisting of a change of use from an agricultural building to a dwellinghouse together with building operations reasonably necessary to convert the building. Paragraph (i) of Class Q allows for the installation or replacement of windows, doors, roofs or exterior walls to the extent reasonably necessary for the building to function as a dwellinghouse.
 11. The Planning Practice Guidance (PPG)² states that the permitted development right assumes that the agricultural building is capable of functioning as a dwelling. The PPG states 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. 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.
 12. For the reasons given above, the existing buildings are not capable of functioning as dwellings without extensive and substantial construction works.

² ID: 13-105-20180615

The extent of the works that would be necessary go beyond what could reasonably be described as conversion.

13. The appellant has referred to a barn conversion that was approved by the Council³ and I have had regard to this. This does not alter my conclusions because the details of individual schemes will vary, and it will be a matter of judgement in each case as to whether a development would be permitted development.
14. For the reasons given above, I conclude that the proposals at both barn 2 and barn 3 would not be permitted development under Part 3, Class Q of the GPDO.

European Habitats

15. A unilateral undertaking (UU) was submitted with the appeal, which would secure a contribution towards the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy. This is intended to secure mitigation for the effects of residential development on European designated habitats. There is a dispute between the parties as to the required amount for this contribution. However, because I have found that the proposals would not be permitted development, there is no need for me to reach a finding on the UU.

Conclusion

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

Nick Palmer

INSPECTOR

³ Ref. 221450