



Appeal Decision

Site visit made on 2 October 2023

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2023

Appeal Ref: APP/N4720/W/23/3326452

Wigton Heath Farm, Manor House Lane, Alwoodley, Leeds LS17 9JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 James Clink, Park Lane Homes against the decision of Leeds City Council.
 - The application Ref 23/01965/DPD, dated 24 March 2023, was refused by notice dated 15 May 2023
 - The development proposed is change of use of agricultural building to a single dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. There is a concurrent appeal¹ for the change of use, extension and alteration of existing agricultural buildings to form two residential dwellings with associated parking, access and garden areas. The site subject to that appeal comprises a group of existing agricultural buildings situated in close proximity to this appeal building. As the current appeal is a prior approval it raises fundamentally different issues to the concurrent appeal. I have, therefore, set out my reasoning for each appeal in separate decisions.
3. The application for prior approval was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). Class Q permits the change of use of an agricultural building to a dwelling house as well as building operations reasonably necessary to convert it, subject to the criteria set out within the legislation. In this case the proposal is for the conversion of an agricultural building to provide 1 dwelling.

Main Issue

4. The main issue in this appeal is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO having particular regard to:
 - Whether the last use of the building was solely for an agricultural use as part of an established agricultural unit; and
 - Whether the building operations are reasonably necessary to carry out the conversion of the building including whether the partial demolition is reasonably necessary to carry out building operations allowed by paragraph Q.1 (i)(i).

¹ Appeal reference: APP/N4720/W/23/3326446

Reasons

Agricultural use

5. The appeal site is a detached former agricultural building, situated at the end of and accessed from, Wigton Heath, off Manor House Lane. The agricultural tenancy terminated at the end of September 2020. The building has been in agricultural use and was mainly used for housing machinery, food and hay, but has been redundant for some time.
6. In determining whether change of use from an agricultural building to a residential dwelling is permitted development, Paragraph Q.1 of Class Q lists the relevant criteria against which proposals must be assessed; failure to meet any of these criteria means it is not permitted development.
7. The building is of a scale and design which is typical of an agricultural building. Furthermore, the images submitted with the appeal appear to show hay being stacked on site. The surrounding land appears to be in agricultural use. It is, therefore, reasonable to accept that the building and surrounding site has been used for the agricultural purposes. The curtilage of the proposed dwelling has included land immediately beside the agricultural building and appears to have been closely associated with and serving the purposes of the agricultural building.
8. The Council refer to a Preliminary Geoenvironmental Investigation report (IR) prepared for the concurrent appeal which shows that the building was constructed in 1988 and that it would have had an agricultural use. However, in addition, the IR states that the site at some point was also being used for the purposes of storing scrap metal and vehicles and it refers to satellite images of the site confirming this from 2015 to 2020, although these images are not before me. The Council considers that, whilst this use would have been unlawful the site has, nevertheless, been used for purposes other than agriculture.
9. The appellant has submitted at Appendix 4 of its statement, a letter written by the appellant and landowner detailing the history of the agricultural tenancies and building to which the appeal relates. In 2005 an agricultural tenancy was agreed by a new tenant, prior to the 20 March 2013 Class Q requirement. Until the termination of the tenancy in September 2020 the site was part of an agricultural tenancy and for no other intended use. In addition, in March 2019 the Council investigated animal welfare issues due to the tenant's deteriorating health and were, therefore, aware of the continued agricultural use of the site. Furthermore, I agree with the appellant in so far as it would not be unreasonable to see agricultural paraphernalia including vehicles and scrap metals associated with the main agricultural practice and use of the site. Consequently, I consider that there is insufficient evidence before me to substantiate the Council's case that the property was not solely used for agricultural purposes.
10. Consequently, based on the evidence before me, I am satisfied that the last use of the building was agricultural and that the site has been in continuous agricultural use. Hence, the requirements of paragraph Q.1(a) are met.

Building operations and demolition

11. The reason for refusal states that the proposal fails to demonstrate that the development does not go beyond building operations reasonably necessary to convert the building. Planning Practice Guidance states that the permitted development right assumes that the agricultural building is capable of functioning as a dwelling. It permits 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. This includes the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services to the extent that is reasonably necessary for the building to function as a dwelling house; and partial demolition to the extent reasonably necessary to carry out these building operations. 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. Therefore, 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. With this in mind, the right allows for a scope of building works that has an implicit limitation. Insofar as the difference between conversions and rebuilding the PPG refers to the Hibbitt High Court Judgment², to which I have had regard in the determination of this appeal.

12. The appeal building is a steel framed agricultural building enclosed in part by mid-height blockwork walls buttressed by intermediate external blockwork piers and a combination of steel and timber cladding fixed to timber side rails. The roof construction consists of fibre cement sheeting fixed to close centred timber purlins, spanning between steel rafters.
13. The barn is constructed from 19 steel frames at approximately 4.8m centres. The frames consist of duo-pitched portals utilising lattice-frame rafters and 'H' section columns. The side of the barn (west elevation) is open from ground level to mid-height with the elevation above clad in timber cladding. The opposite gable elevation is fully open. The proposal seeks partial demolition of the building to retain 5 steel frames.
14. A structural report was submitted with the application to demonstrate that the building is capable of conversion. A subsequent report was prepared for the appeal. The works would include demolition, window and door openings, internal insulated works, utilities connections and drainage work and an external garden. A new concrete ground slab will be required to form a suitable base for the proposed finishes. The plans indicate that the existing cladding on the elevation, the roof and the lower-level blockwork will be retained. However, the initial structural report alluded to a new roof being required and that the upper-level cladding would need to be removed. In addition, the structural report appeared to indicate that the steel frames are unlikely to be structurally strong enough to take the loading which comes with the external works and that it is the additional works that would give the building stability. The Council, therefore, determined that most of the building, including two of the elevations, the upper floor of the side elevations and the roof would be new additions and that the scheme could not be termed as a conversion, but rather a new build and that the proposal, therefore, fell outside the scope of Class Q.
15. A subsequent structural report was prepared to accompany the appeal. This together with the appellant's statement confirms that it is proposed to retain the existing cladding to the roof and walls where possible and retain the existing blockwork at the lower level. It goes on to say that the building is suitable for conversion to a residential dwelling.
16. The report states that the steel framing is in an acceptable condition and that the structural capacity of the frame has not been compromised and is an adequate

² Hibbit and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin).

strength to support any additional loads arising as a result of the conversion. It goes on to say that whilst some localised repair works may be necessary this is no more than is reasonably necessary to convert the building.

17. The existing foundations are visible on site, rectangular pads supporting the steel frame which are considered capable of carrying the additional minor loads created by the residential conversion. However, the retained section of the barn would be mainly open at both gable ends and so it will be necessary to create new walls. The Structural Report states that new strip foundations for the gable walls will be needed which are likely to be concrete strip foundations. Whilst some building works are allowed under the change to residential use permitted by Class Q, including the installation of windows, doors, roofs or exterior walls for example, the installation of foundations is not permitted. Indeed, the appellant acknowledges at paragraph 6.31 of its submissions that new structural elements would be required for the open gables. The PPG states that 'it is not the intention of the permitted development right to include the construction of new structural elements of the building'. Consequently, the works go beyond that specified in Paragraph Q.1.(i)(i). Furthermore, given the need for foundations to support the new exterior walls, I do not consider that the building is structurally sound and suitable for conversion in its current form.
18. The works would include a substantial amount of demolition reducing the building from an 87m long structure to an approximately 20m long structure. The floorspace of the existing building is not before me, however, the proposal would only retain around 23% of the length of the existing structure and only five bays of the existing 19 bays of the barn will be retained for conversion. Whilst there is no definition of what constitutes 'partial demolition'; the proposed demolition would by any reasonable interpretation be classed as substantial. Furthermore, part Q.1 (i)(ii) only allows 'partial demolition reasonably necessary to carry out the operations allowed by paragraph Q.1(i)(i)'. In my view, the extent of the demolition goes beyond that necessary to carry out the building operations allowed by paragraph Q.1(i)(i). Indeed, the cumulative nature of the works and the extent of demolition would go beyond what could reasonably be considered to constitute the conversion of the building.
19. Consequently, I consider that the substantial building operations, including significant demolition, two new elevations and installation of foundations would cumulatively go beyond the extent reasonably necessary to facilitate the conversion.

Conclusion

20. For the above reasons, the appeal scheme would not comply with the description of permitted development as it is set out by Class Q, part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The appeal is, therefore, dismissed.

Caroline Mulloy

Inspector