



Appeal Decision

Site visit made on 21 November 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2023

Appeal Ref: APP/T2350/W/23/3319125

Oaklea, Longsight Road, Copster Green BB1 9EX

- 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 Dr Iqbal against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2022/1105, dated 28 November 2022, was refused by notice dated 31 January 2023.
 - The development proposed is described as 'prior notification for the proposed change of use of an agricultural building to a dwelling house - Class Q (a) and (b).'
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Decision

1. The appeal is dismissed.

Procedural Matters and Main Issue

2. The property name in the banner heading above is taken from the planning application form and my observations of the name plaque at the entrance to the appeal site, as there is no evidence before me that the alternative spelling on the Council's Decision Notice is correct.
3. The description of development in the banner heading above is taken from the appeal form and Council's decision notice, as it more accurately describes the proposed development. The appellant's statement of case refers to the building functioning as two dwellinghouses¹. It is clear from the description of development and the submitted plans that the proposal relates to the provision of one dwelling only. I have determined the appeal on this basis.
4. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) enables certain types of development to take place without the need for specific planning permission, provided certain criteria are met. Schedule 2, Part 3, Class Q of the GPDO permits development consisting of (a) a 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, and (b) building operations reasonably necessary to convert the building referred to in paragraph (a) above.
5. The Council considers that the proposed operational works would be above and beyond what could be considered to be reasonably necessary to enable the building to function as a dwelling as allowed under Class Q(b). Its decision notice also includes further reasons for refusal in relation to the proposal's effects on highway safety and protected species, a matter I will come back to later in my decision.

¹ Paragraph 5.15 of the Appellant's statement of case.

6. The main issue in this appeal is therefore, whether the proposal would consist of building operations that exceed those reasonably necessary for the building to function as a dwelling under Class Q.1(i).

Reasons

7. The GPDO states at Paragraph Q.1(i) that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls, or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwelling house. The permitted development rights also include partial demolition to the extent that it is reasonably necessary to carry out such building operations.
8. Paragraph 105 of the Planning Practice Guidance (PPG) advises that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. Building operations which are reasonably necessary to convert the building, which may include those that would affect the external appearance of the building and would otherwise require planning permission, would be permitted.
9. However, the PPG is clear that it is not the intention of the permitted development rights to allow rebuilding work that would go beyond what is reasonably necessary for the conversion of the building to a residential use². As such, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to benefit from the permitted development rights. Neither the GPDO nor the PPG define the term 'reasonably necessary.' Consequently, this is a matter of planning judgement based on the nature and extent of the proposed building operations in each case.
10. The barn is a steel framed structure with a concrete floor and half height block work walling to the rear and sides, with corrugated sheeting above and on the mono-pitched roof. The front elevation is fully open with remnants of previous timber cladding just below eaves level. Given the missing and broken cladding, the building has an overall dilapidated appearance.
11. The Structural Report advises that the steel framework could be retained to provide suitable support for a domestic property, comprising a structurally insulated panel system with minimal remediation works. However, the steel framework is limited to 5 arches connected by timbers that are to be removed. Moreover, the structural report is based on a visual inspection, without any excavations or assessment of the foundations.
12. It is apparent from the submitted plans and the information before me that the proposed alterations would result in a significant overhaul and replacement of the existing building fabric. The external walls and roof, including all of the timber purlins and side rails would be replaced and significant areas of new external walling would be required, particularly to those elevations that are currently open or contain corrugated sheeting, along with a new insulated floor. Even if the installation of a new concrete floor could be considered to not be a structural operation, only the very basic skeletal steel frame would remain.
13. I acknowledge that the PPG does not prohibit internal works such as the erection of partitions, kitchens, bathrooms or mezzanine floors and that Section

² Paragraph: 105 Reference ID: 13-105-20180615.

55(2) of the Act³ excludes works for the maintenance, improvement or other alteration of any building which affect the interior, from the definition of development.

14. Nevertheless, I find that cumulatively the proposed works would be so extensive that nothing other than the steel frame would remain and thus, they would go beyond what could be described as building operations reasonably necessary to convert the agricultural building to a dwelling. Moreover, given the limitations of the Structural Report, I cannot be certain that further works such as the provision of foundations would not be necessary.
15. Reference is made to an appeal decision which was allowed in another local authority area that is considered to be comparable⁴. I have been provided with a structural condition report for the referenced appeal building that I note was penned by the same author as the Structural Report before me. Be that as it may, it is not clear that the condition report was before the previous Inspector, as it was not referenced in their decision.
16. Whilst there are similarities, the previous Inspector found that the extent of works required as being necessary to create the proposed dwelling would not be so significant that the proposal could not be construed to be a conversion. Consistency is important, nevertheless I have reached my own conclusions and determined that the proposed works in this case, on the basis of the evidence before me, go beyond what could be determined as reasonably necessary. The stripping back of the building to its bare skeletal steel frame, and rebuilding and cladding would not constitute the conversion of an existing building such that it would not be permitted development. The referenced appeal decision does not alter my findings in this regard.
17. Furthermore, the appeal decision diverges from those referenced by the Council, with which my findings are generally consistent⁵. The fact that different approaches have been highlighted in the cases referred to is indicative that the issue is not straightforward and a degree of judgement and interpretation is required based on the facts of the case.
18. The proposed works would essentially amount to the construction of a new dwelling, rather than the conversion of an existing building. Thus, the proposal would not accord with paragraph Q.1(i) and would not therefore benefit from the permitted development rights under Schedule 2, Part 3, Class Q(b) of the GDPO.

Other Matters

19. For completeness the Council also considered whether the proposal met with the conditions set out at Q.2(1) and included reasons for refusal in relation to the transport and highways and protected species impacts of the development. However, as I have concluded that the proposal is not permitted under Class Q, I am not required to consider these matters further, including the location and suitability of the proposed access.
20. Although the impact on protected species is not specifically referred to in the GPDO or requested by the Council, consideration would nonetheless have been required under the duty imposed by Regulation 9 of the Conservation of

³ The Town and Country Planning Act 1990.

⁴ Appeal decision APP/M2372/W/21/3277765.

⁵ APP/M2325/W/20/3252774, APP/R3325/W/19/3242490, APP/Q3305/W/20/3244348 and APP/X1118/W/20/3260797.

Habitats and Species Regulations 2017. This requires deliberation as to whether there is a reasonable likelihood of protected species being present and affected by a proposal, including those requiring prior approval⁶. It would also require consideration under condition Q.2(e) as to whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling. Circular 06/2005 advises that ecological surveys should only be left to a planning condition in exceptional circumstances, which have not been advanced here.

21. Even if I had found that the proposal complied with the conditions at Q.2(1), this could not alter my conclusion as to the appeal proposal failing to constitute permitted development.

Conclusion

22. For the reasons given, I conclude that the proposal does not constitute permitted development. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR

⁶ This is the approach taken in appeal decisions APP/X1118/W/20/3260797, APP/L3245/W/15/3004467, APP/D0121/W/19/3240553 and APP/T2350/W/22/3304870 as referenced by the Council.