



Appeal Decision

Site visit made on 7 November 2023

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st December 2023

Appeal Ref: APP/Y2003/W/23/3320072

Barn on West End Road, Epworth, Doncaster DN9 1LA

- 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 Cumberland against the decision of North Lincolnshire Council.
 - The application Ref PA/2023/57, dated 14 January 2023, was refused by notice dated 13 March 2023.
 - The development proposed is change of use of agricultural building to dwellinghouse (Use Class C3) and for building operations reasonably necessary for the conversion.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal falls to be determined under Class Q(b) of Schedule 2, Part 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter the 'GPDO'). This permits 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, together with building operations reasonably necessary to convert the building to a dwellinghouse.

Main Issue(s)

3. The main issue in this appeal is:
 - Whether the proposed building operations would exceed what is reasonably necessary to convert the building into a dwellinghouse for it to benefit from permitted development rights.

Reasons

4. The building is a partially clad agricultural barn, which has a basic metal structure, with no formal means of flooring. It was not possible to see the nature of the foundations.
5. Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order and any building operations reasonably necessary to convert the building.

6. Paragraph Q.1(i) of the GPDO lists the building works permitted to facilitate the change of use of an agricultural building to a dwellinghouse. These are the installation or replacement of windows, doors, roofs, exterior walls, water, drainage, electricity, gas or other services, as well as partial demolition to the extent reasonably necessary to carry out these building operations. The Planning Practice Guidance (the PPG) provides further information in that regard, by stating that the right assumes that the agricultural building is capable of functioning as a dwelling. The PPG adds that it is only where the existing building is already suitable for conversion to residential use that it would be considered to have the permitted development right
7. Paragraph 105 of the PPG provides further clarification. The guidance states that it is not the intention of the permitted development right to include the construction of new structural elements for buildings. Therefore, it is only where the existing buildings are structurally strong enough to take the loading which comes with the external works to provide for residential use that the buildings would be considered to have the permitted development right.
8. The Council considers that the barn would require extensive works to be capable of being acceptable for a residential use. Clearly the case involves matters of judgement. However, the evidence provided does not include a structural report from the appellants. That lack of detail means that there is considerable doubt in my mind as to whether the existing building frames are capable of taking the loading associated with the new works. I find that without firm evidence to support the proposal, I am not satisfied that the building is capable of conversion for residential use without extensive works beyond what is outlined in the relevant guidance.
9. The Council referred me to the High Court judgment in the *Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2863 (Admin)) in which it was held that, for the permitted development rights under Class Q(b) to apply, the building must be capable of conversion to residential use without operations that would amount to a rebuild of the existing structure or a fresh build, as such works would go beyond what could be considered a conversion. I acknowledge that there are differences between the building in *Hibbitt*, which was a steel-framed barn open on three sides, and that in the case now before me. Nonetheless, *Hibbitt* sets principles which are applicable to this appeal, not least that it is for the decision maker to exercise judgement in each case by considering the type and extent of works proposed.
10. I acknowledge that elements of the proposed works are among those specified in the GPDO. However, on the basis of the evidence submitted and my own observations on site, I consider that the building requires significant works in order to facilitate its conversion to a dwelling, including the provision of a new roof and flooring. In my view these are cumulatively so extensive that they would be more akin to a rebuild than a conversion of the existing buildings.
11. To conclude, it was evident on my visit that the existing building is semi-open with the steel metal frame clearly visible, such that the building is not, in my view, suitable for conversion without substantial rebuilding. As a matter of planning judgement and based on what I saw and on the evidence before me, the significant extent of new walls required, some uncertainty about the foundations and substantial building operations required to convert the building

would go beyond what would be reasonably necessary for the building to function as a dwelling and be described as a conversion. Accordingly, the building operations fall outside the scope of permitted development rights under Class Q.1(i) of the GPDO and the proposal would not be permitted development.

12. For the above reasons, I conclude that the proposal would not comply with the limitations and restrictions specified as being applicable to the proposed development. As such, it could not benefit from deemed permission under Class Q.

Other Matters

13. I note the comments of the appellant that he feels that the decision was made out of the 56-day time limit for applications of this nature, but having examined the timescales, I am satisfied that the decision was made by the Council within the time limit.
14. I have also noted the similar schemes that the appellant has forwarded in support of his proposal. I have not received full details of these, but the context is not the same as the appeal proposal, and in any event, I am required to deal with the appeal on its own merits.

Conclusion

15. For the reasons given above I conclude the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. The appeal is therefore dismissed.

Paul Cooper

INSPECTOR