



Appeal Decision

Site visit made on 25 March 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal Ref: APP/A0665/W/23/3331400

Tiverton Bank Farm, Tiverton, Tarporey CW6 9NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 The Wellcome Trust Ltd against the decision of Cheshire West and Chester Council.
- The application Ref is 23/00112/PDQ.
- The development proposed is change of use of agricultural barn to a dwellinghouse.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development within the above banner heading is taken from the Council's decision notice as the application form did not contain a description of the proposal.
3. A revised Structural Report (RP-100300-004; Issue 3; October 2023) has been submitted with the appeal, along with additional drawings of the proposed conversion, including further detailing on the proposed cladding, insulation and roof works. Interested parties have had an opportunity to review and make comments on these additional documents. As such, I do not consider that the Council, or other parties, would be prejudiced by my acceptance and consideration of these additional documents as part of this appeal.

Background and Main Issue

4. The appeal relates to an agricultural barn at Tiverton Bank Farm (hereafter referred to as the barn). Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) 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 (dwellinghouses). Class Q(b) allows for the change of use together with building operations reasonably necessary to convert the building for that purpose.
5. The Council's reason for refusal states that the scale of operational works required to alter the use of the building would be beyond what might be sensibly or reasonably described as a conversion.
6. In view of the above, the main issue is whether or not the building operations involved in the proposal would be to an extent reasonably necessary to convert the building to a use falling within Class C3.

Reasons

7. Class Q.1(i) states that development under Class Q(b) can consist of building operations including the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to an extent reasonably necessary for the building to function as a dwellinghouse. Furthermore, Class Q.1(i) also allows the partial demolition to the extent reasonably necessary to carry out these operations.
8. The “When is permission required” section of the Planning Practice Guidance (PPG) details that internal works to buildings are not generally development and states that for the building to function as a dwelling it may be appropriate to undertake internal structural works. Such works include allowing for a floor, the insertion of internal walls, or a mezzanine or upper floors within the overall residential floor space permitted.
9. However, the overarching provision of Class Q is that the operations must be reasonably necessary to convert the building. The PPG states that it is not the intention of Class Q to allow rebuilding that would go beyond what is reasonably necessary for the conversion of the building to residential use. The PPG also asserts therefore 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.
10. It is established in case law¹ that if the works go beyond what amount to a conversion, and represent a rebuild, then the scheme would fail at the first hurdle. What represents a conversion or rebuild is not defined and thus is a matter of planning judgement.
11. The barn to which the appeal relates is four bays in length and is of steel frame construction, with timber roof purlins and an asbestos roof. The front elevation of the barn is predominantly open, save for a feeding trough at the base, some metal railings above and a metal feed rack.
12. The rear and side elevations consist of concrete blocks at the lower section, with metal cladding and timber boarding panels above. These timber boarding panels, and metal cladding, offer little in terms of structural substance to the integrity of the building and there are some gaps where timber boards are missing. Furthermore, each side elevation has a significant opening which previously contained a large metal door. One of these doors has been completely removed and the other is missing the bottom half. Internally the building has a concrete slab floor and is essentially open plan, with the exception of a section of a concrete block wall in the centre.
13. The appeal submission is accompanied by a structural survey, and detailed drawings, which demonstrate that the existing steel frame is structurally sound and would be retained. However, a new blockwork wall would need to be constructed across the full length of the front elevation, from ground level to eaves height, built off the existing footings. The existing blockwork on all other elevations would also need to be built considerably up to eaves level and new block walls would need to be constructed in the aforementioned significant openings on either side elevation. The amount of new blockwork required to provide the external walls to enable this conversion is in my opinion substantial.

¹ Hibbitt v Secretary for Communities & Local Government & Rushcliffe BC [2016] EWHC 2853 (Admin)

14. Furthermore, the asbestos roof would need to be completely removed and replaced with a corrugated sheet roof. The submitted drawings state that the timber roof supports would be retained, however the submitted structural report details that there is potential rotting and water damage to the roof structure and the roof purlins are undersized and sagging. As such the submitted structural report details that the timber roof purlins will need to be replaced and consequently there is some inconsistency between the submitted drawings and the structural report. Should these purlins need replacing, as detailed within the structural survey, nearly the whole roof structure would be replaced, with the exception of the retained steel frame.
15. The submitted details also state that the external timber cladding would be replaced where necessary, however exact details of the extent of this replacement have not been provided. In the absence of this detail, and from my observations on-site, I consider it likely that a significant amount of the existing timber boarding would likely be replaced due to its weathered nature and missing pieces. Additionally, it is unclear as to the final finish proposed on the rear elevation which is currently metal cladding above the concrete blockwork, and whether this would also be replaced with new timber cladding. A significant number of new windows and doors would also be installed in the front and rear elevations.
16. Internally, comprehensive subdivision would be provided through the erection of numerous walls, and the submitted drawings show that new walls and a new roof would be built on the inside of the existing and new external elements of the building.
17. I accept that the works set out within Class Q can, in some cases be extensive. When taken in isolation some of the individual elements of the appeal proposal would be acceptable. Nevertheless, the extent of fabric that is to be retained and used, along with the amount of new build elements that are required in order to facilitate the conversion, needs to be assessed as a whole.
18. The nature and extent of the proposed building operations required to facilitate the use of this building as a dwellinghouse would be of such magnitude as to exceed the definition of a conversion. They would instead represent a rebuild, thereby falling outside the scope of the GPDO.
19. Within their submissions the appellant has drawn my attention to several allowed appeal decisions for Class Q schemes across the country. Whilst there does appear to be some similarities between elements of the given examples and the proposal before me, the issues around Class Q are highly fact sensitive, turn on the totality of an often diverse array of site-specific circumstances, and are subject to individual planning judgement.
20. In respect of the appeal at the barn east of Northwood Villa² in Shropshire, I note that the existing roof was being retained as part of this proposal and therefore this is not directly comparable to the appeal proposal before me which, according to the submitted structural report, requires nearly the whole roof structure to be replaced except for the steel frames.
21. Similarly, the Inspector's decision for the appeal at Withy Bank³ in Chester asserts that the roof covering and a very substantial amount of the existing fabric of the

² APP/L3245/W/18/3216271

³ APP/A0665/W/22/3305387

building would be retained. Again, this is not comparable to my conclusions in respect of the current appeal scheme.

22. The Inspector in the Babland Barn⁴ decision found that if the existing structure is of substantial construction and capable of taking the works necessary for conversion, then it will fulfil the conversion requirement of Class Q. As detailed above the issues around Class Q are highly fact sensitive and can turn on an array of site-specific circumstances. In this case I have found that the existing steel frame is structurally sound. However, I have concluded that the nature and extent of the proposed substantial building operations go beyond what is reasonably necessary and therefore fall outside the scope of the GPDO.
23. With regard to the appeal referred to at Brinsford Farm⁵, Slade Heath, I note that the Inspector states that the existing concrete walls and timber cladding would be retained as part of the conversion. I have limited information before me as to whether the proposal at Brinsford Barn required the same amount of new blockwork to be added to the external walls as the appeal proposal, or whether that building had a largely open front elevation like the current appeal building. As such, and on the information before me, I cannot draw any direct comparison between the appeal at Brinsford Farm and current appeal proposal.
24. In view of the above, there is limited evidence to demonstrate that any of the appeals referred to by the appellant are directly comparable to the current appeal proposal. Thus, these decisions have had limited weight in my assessment of the appeal proposal. Consequently, whilst I have taken these previous Inspectors' findings into account, I have nonetheless reached my own decision based on the site-specific circumstances of the present case and the evidence before me.

Other matters

25. I note that the appellant's covering letter which formed part of the original planning submission refers to appeal decisions relating to external cladding not extending beyond the footprint of the building⁶, and highways issues⁷. However, these appeals are not directly relevant to the Council's reason for refusal. As such, whilst I have reviewed these appeal decisions, they are not determinative in my consideration of the main issue in respect of this appeal.

Conclusion

26. For the reasons given above, I conclude that the nature and extent of the proposed building operations fall beyond the extent reasonably necessary to facilitate the use of this building as a dwellinghouse. Accordingly, the proposal does not constitute permitted development and the appeal is dismissed.

R Major

INSPECTOR

⁴ APP/K1128/W/18/3199823

⁵ APP/C3430/W/20/3259550

⁶ APP/V2635/W/15/3005409

⁷ APP/J1915/W/15/3038249