



Appeal Decision

Site visit made on 14 July 2020

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2020

Appeal Ref: APP/M2325/W/20/3252774

Elswick Lodge Farm, Lodge Lane, Elswick, Preston, Lancashire PR4 3ZJ

- 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, Paragraph Q.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr & Mrs Paul Metcalf against the decision of Fylde Borough Council.
 - The application Ref 20/0063, dated 26 January 2020, was refused by notice dated 19 March 2020.
 - The development proposed is the change of use of agricultural building to one dwelling together with associated building operations pursuant to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Schedule 2, Part 3, Class Q 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 a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order 1987 (as amended), and the building operations reasonably necessary to convert the building.
3. Schedule 2, Part 3, Section W of the GPDO sets out the prior approval process. It states that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question.
4. It was on this basis that the Council refused to grant prior approval for the scheme under Schedule 2, Part 3, Class Q1(i) of the GPDO as it relates to the degree of building operations necessary for the building to function as a dwellinghouse and Condition Q2 (1)(f) in relation to the design or external appearance of the property.

Reasons

5. 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 external walls or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse. The permitted development rights also include partial demolition to the extent reasonably necessary to carry out such building operations.
6. The GPDO does not define what constitutes 'reasonably necessary'. However, in this regard the main parties have directed me to the findings in the Hibbitt judgment¹. Here it was found that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or the effective creation of a new building. Whether the building operations go beyond the scope of conversion is a matter of planning judgement.
 7. The Planning Practice Guidance²(PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, 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, would be permitted. However, the PPG also clarifies 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. 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'. The nature and extent of the proposed building operations are therefore a relevant consideration in making that assessment.
 8. The appeal building is a typical modern portal framed agricultural storage building of substantial and permanent construction. At the time of my site inspection, the steel framework appeared in good condition, consistent with the findings of the structural report submitted with the planning application. The building has a concrete panel wall to the lower part of all four elevations with profiled sheeting to the upper walls and roof. The floor of the building appears as a single concrete slab incorporating the stanchion foundations and supporting a later mezzanine level at one end of the building.
 9. The works to facilitate the re-use of the building would require the removal of the entire roof covering and all of the cladding to the upper parts of each elevation. Additionally, several of the lower blockwork panels would be removed in whole or part. Only the framework and slab would remain in their entirety.
 10. Whilst Paragraph Q.1(i)(ii) of the GDPO provides for the partial demolition of the building to facilitate the specified building operations, the degree of removal of the existing façades and roof would constitute the significant majority of the existing external building surfaces to the extent that the degree of new-build would constitute the substantial re-building of the pre-existing structure.

¹ Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

² Reference ID: 13-105-20180615

11. The appellants reference the existing extent of enclosure on all four sides in order to distinguish it from the circumstances of the building considered in the Hibbitt case; however, as set out above, much of the existing elevations would be removed for replacement. Although I accept that the PPG does not prohibit internal works, it does not follow that the proposed development would constitute a 'conversion', as this is a matter of planning judgement depending on the nature and extent of the building operations proposed. In my view, when taken together, the works would be of such an extent that they would go beyond what would be reasonably necessary for the 'conversion' of the building to a residential use.
12. For the above reasons, I conclude that the proposed works would go beyond building operations reasonably necessary to convert the building into a dwellinghouse and accordingly, would not benefit from the permitted development rights under Schedule 2, Part 3, Class Q(b) of the Order.
13. In support of the appeal the appellants have referred me to an appeal decision³, however, in that case I note that the proportion of the walls to be replaced was much less than that proposed here and its roof was to be retained. The appellants also compare the proposal to one given prior approval⁴ by another Council. However, precedent decisions are rarely an argument that should carry great weight in planning decisions which should be made on their own merits. Notwithstanding this, it is notable that the assessment with regard to the matters of reasonable necessity, suitability for conversion and extent of works are unqualified in that particular case. I therefore find it is not persuasive in respect to the case before me.
14. I have had regard to the comments of interested parties and the Council's other reason for refusal which contends that the proposed design of the building would harm character and appearance of the locality. However, in light of my findings that the proposal would not comprise permitted development under Class Q, it is not necessary for me to consider whether the scheme complies with the remaining provisions of Class Q. This is because even if I were to find that the proposal complied with these requirements, this could not alter my conclusion as to whether the appeal scheme constitutes permitted development.

Conclusion

15. For the above reasons, I conclude that the proposal is not permitted development within Schedule 2, Part 3, Class Q(b) of the Order. The appeal, is therefore, dismissed.

R Hitchcock

INSPECTOR

³ APP/L3245/W/18/3216271

⁴ 19/00841/COUQ