
Appeal Decision

Site visit made on 3 November 2015

by Paul Singleton BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 November 2015

Appeal Ref: APP/L3245/W/15/3132010

The Cow Shed, Painsbrook Farm, Painsbrook, Hadnall, Shrewsbury, Shropshire SY4 4BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by P R Brisbourne & Son against the decision of Shropshire Council.
 - The application Ref 15/01590/ PMBPA, dated 14 April 2015, was refused by notice dated 24 June 2015.
 - The development proposed is the conversion of existing cow shed to 3 bedroomed residential accommodation.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made on the 14 April 2015, but was determined by the Council having regard to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order (GDPO) 2015¹ which came into effect on the following day (15 April 2015) and I have considered the appeal on the same basis. The application sought prior approval in relation both to the proposed change of use under Class Q(a) and the building operations required for the conversion under Class Q(b).
3. The Council has acknowledged that there was an error in the wording of the decision notice and has corrected the references to the specific paragraphs within the GPDO. This does not affect the outcome of the appeal.

Main Issue

4. The main issue is whether the proposed conversion would be permitted development.

Reasons

5. Class Q of the GDPO allows a change of use of any building and any land within its curtilage from use as an agricultural building to a use falling within Class 3 (dwellinghouses) of the Schedule to the Use Classes Order and building operations reasonably necessary to convert the building to a use falling within Class 3. Paragraph Q.1. sets out various circumstances in which development is not permitted by Class Q.

¹ SI 2015/596

6. The Council's concerns relate to paragraph Q.1.(i) which states that development is not permitted if the development under Class Q(b) would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls or services to the extent 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. The Council has not argued that the various tests set out in the other sub paragraphs of Q.1. are not satisfied.
7. The portal framed building is open sided on the south elevation and clad with a mixture of concrete blocks, concrete panels and Yorkshire Boarding on the other elevations; the roof is clad in fibrous cement sheets. The block walls and panels would be retained and rendered externally. The Yorkshire Boarding would be extended to cover the upper sections of the north and west elevations, and extended vertically on the east elevation to replace existing fibrous cement cladding so providing a more uniform appearance to these elevations; the existing roof cladding would be retained. Insulation to the walls and roof would be achieved by means of internal insulation and lining. New window openings would be formed within the existing concrete block walls and new timber stud walls above on the north elevation.
8. None of the alterations to the north, east or west elevations would involve any demolition and, given that there are no walls or panels on the south elevation that could be demolished, the Council's concerns as to the extent of demolition are unfounded. I consider that the extent of building operations envisaged in respect of the roof and to the three enclosed elevations would fall within the scope of the "reasonable necessity" test set out in Q.1.(i). The key issue is with regard to the proposed infilling of the south elevation with full height glazing.
9. This proposed treatment would involve extensive framing along the lines indicated on the appeal plans with large panels of glazing and new lintels above. No constructional details were submitted with the application and the officer's report raised concerns that the glazing would introduce substantial new loadings and that no information was available to demonstrate that such loadings could be supported by the existing concrete floor slab.
10. Further structural information has subsequently been provided by the appellant in the form of two letters from Richard Strauss Associates, Consulting Structural Engineers. The first, dated 20 August 2015, provides a general description of the structure and advises that there is no structural reason why the existing building cannot be converted as proposed, and that the existing structure is sufficiently robust to support the proposed roof and wall cladding. The second, dated 23 September 2015, confirms this view and advises that, as it is understood that the new internal walls will be lightweight, non load-bearing timber framed partitions, these could be built off of the existing concrete slab.
11. Neither of the letters expressly addresses the question of how the loadings associated with the proposed full height glazing would be supported but further clarification is given in the appellant's written comments on the Council's statement. These confirm that;
 - (a) the existing steel frame is constructed on concrete pad foundations but new strip foundations would be installed in order to support the proposed glazing to the south elevation, and

- (b) the new lintels at high level within the existing steel frame would not add a significant additional load to the existing structure but would enhance the stability of the panels to be glazed.
12. The infilling of the currently open side of the building is necessary for the building to function as a dwelling and the proposed fully glazed elevation would be sympathetic to the character of the building. However, in considering whether these building operations would meet the “reasonable necessity” test, regard should be had to the guidance in paragraph 105 of the national Planning Practice Guidance² (PPG).
13. The PPG states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling but recognises that some building operations which would affect the external appearance of the building, which would otherwise require planning permission, should be permitted. It also makes it clear that it is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.
14. Having regard to that guidance I consider that the proposed strip foundations should properly be treated as constituting new structural elements and, given their stated purpose of enhancing the stability of the panels to be glazed, the proposed lintels could also be argued to fall within that classification of works. For these reasons I find that these elements of the proposed works would not benefit from permitted development rights under Class Q(b). I note the appellant’s reference to two other appeal decisions. However these decisions both predate the current guidance in PPG and neither appears to consider any proposal for new foundations as part of the building operations.
15. The appellant has demonstrated that all the other works can be achieved within the capacity of the existing structure and it may be that an alternative means of infilling the south elevation could be achieved without additional structural elements. However, on the basis on the information available, I am unable to conclude that the building as a whole is structurally strong enough to take the loading which comes with the external works necessary to provide for its conversion to a residential use. Accordingly, I conclude that the proposed conversion and works do not benefit from permitted development rights under Class Q; planning permission would, therefore, be required for any change to residential use.
16. An a application for planning permission would be a matter for the Local Planning Authority to determine in the first instance and cannot be addressed under the prior approval provisions set out in the GPDO. For these reasons the appeal is dismissed.

Paul Singleton

INSPECTOR

² Reference ID: 13-105-20150305