
Appeal Decision

Site visit made on 11 July 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 10 August 2016

Appeal Ref: APP/L3245/W/16/3147626

Barn, Kenley Hall, Kenley, Shrewsbury SY5 6NH

- 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 Paul Jarrat against the decision of Shropshire Council.
 - The application Ref 15/03415/PMBPA, dated 6 August 2015, was refused by notice dated 27 October 2015.
 - The development proposed is an application for prior approval under Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015 for change of use from agricultural to residential use.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Planning Practice Guidance (PPG) advises that the starting point for Class Q is that the permitted development rights grant planning permission, subject to the prior approval requirements. However, it is necessary to determine whether the proposal falls within permitted development. Class Q of the GPDO¹ states that development consisting of Q(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 of the Use Classes Order²; and Q(b) building operations reasonably necessary to convert the building, is permitted development. Where development is proposed under Class Q(a) together with Class Q(b), it is permitted subject to the condition that before beginning the development, the prior approval of the local planning authority will be required as to (a) transport and highways impacts, (b) noise impacts, (c) contamination, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building.
3. The Council refused the application for prior approval because it considered that the proposed building would not accord with Class Q(b) by reason of consisting of building alterations other than those permitted under Q.1.(i). The Council have also indicated that prior approval would be necessary in any case and that the design or external appearance of the building would not be acceptable due to the effect upon the setting of Grade II listed buildings.

¹ The Town and Country Planning (General Permitted Development) (England) Order 2015

² The Town and Country Planning (Use Classes) Order 1987 (as amended)

Main Issues

4. The first main issue is whether the proposal would be permitted development under Class Q, subject to the prior approval of certain matters. If it is concluded that the proposal would be permitted development under Class Q, a second main issue would be the effect of the development on the character and appearance of the host building and the surrounding area, including the setting of Grade II listed buildings.

Reasons

Whether the proposal would be permitted development

5. The site comprises of an unlisted agricultural building located within a field that forms part of the agricultural holding of Kenley Hall and would be served by a nearby access to the field from the minor road running through Kenley. The building is located approximately 80m to the south of Kenley Hall and 30m to the north of Keld Cottage, both of which are Grade II listed buildings.
6. The existing building is a post and beam barn that is currently supported by telegraph poles sunken into the ground and with a concrete floor covering approximately half of the building which the appellant has indicated is a 110 mm thick slab with a 1200 gauge damp proof membrane. The current roof has two different roofslopes and roof levels comprising of lightweight corrugated metal sheeting with timber edge beams and purlins that support the rafters at regular intervals. The section of the building with the higher roof level currently faces towards the road and is in use as a hay store and parking for a tractor. Two thirds of the front elevation and the north eastern side elevation remain open and unenclosed, together with a door to the opposite south western side elevation. The other part of the building with the lower roof level is used for log cutting and storage, with a single opening on its south western side elevation.
7. Services are available within the site as the building has an existing mains water supply and electricity supply, together with connections to storm drains. There are also nearby foul drains to an existing septic tank system and an underground heating pipe to a biomass heating system is located in close proximity to the building.
8. The proposal seeks to convert the building to a four bedroom dwelling comprising of ground floor accommodation only, with submitted plans provided to indicate floor plans and elevations. The Council's concerns relate specifically 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 have not expressed concerns that the various tests set out in the other sub paragraphs of Q.1.would not be met and based on the evidence before me, I have no reason to take a different view.
9. The structural report provided by the appellant indicates that there is no structural reason why the existing post and beam structure could not be utilised to form the basis of a new panel frame structure that will meet all of

the structural requirements of a single storey building suitable for residential accommodation. However, the building operations necessary to convert the building would include timber frame infill panels bolted to existing timber posts and clad using sheeting to resist horizontal racking forces and support vertical loads from rafters, the addition of new rafters to stiffen the long spans and two internal walls designed as shear walls. In addition, the two rows of existing columns within the centre of the barn would require a method to enable the principle rafters spanning the lower level roof to extend to the internal columns supporting the high level roof.

10. With respect to Class Q, paragraph 105³ of the PPG advises 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".
11. The installation and replacement of exterior walls, roofs, doors and windows would fall within building operations reasonably necessary for the building to function as a dwellinghouse. However, to facilitate these alterations the construction of new timber frame panels, internal shear walls and the addition of rafters would comprise of the addition of significant structural elements to the building that would reinforce the existing post and beam framework to support vertical loads and transpose loads to foundation level. I consider that these structural alterations would fall outside of those permitted by Class Q(b) and Class Q.1(i) having regard to paragraph 105 of the PPG. In this respect, there is no substantive evidence before me that the existing post and beam framework would otherwise be structurally strong enough to take the loading from the replacement walls and roofs, together with the insertion of windows and doors proposed without substantial alterations to provide additional structural support and resistance. I therefore consider that it has not been demonstrated that the building could be successfully converted without significant new building operations outside of the definition at Class Q.1(i) of the GPDO.
12. I note the appellant's suggestion that some works do not need to be covered by the permitted development right, by reference to s55 (2)(a) of the Town and Country Planning Act 1990 (TCPA). This states that "the carrying out for the maintenance improvement or other alteration of any building of works which (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building" does not constitute development. Consequently, works falling within s55 (2)(a) of the TCPA do not constitute development and so do not need to be covered by the permitted development rights granted by Class Q of the GPDO.
13. However, s55(2)(a) of the TCPA only applies to works of "maintenance, improvement or other alteration", whereas Class Q relates to works reasonably necessary to convert the building. As a consequence, there is a difference between works that affect only the interior of the building falling under s55(2)(a) of the TCPA, compared to structural alterations that are development undertaken internally as part of a material change of use of a building and / or which affects the external appearance of the building. I consider that the

³ Reference ID: 13-105-20150305 – Revision date 05 03 2015

proposal clearly falls within the latter category and therefore comprises building operations which constitute development in accordance with the definition within s55 of the TCPA. The alterations to the building therefore necessitate consideration relative to Class Q of the GPDO.

14. In order to benefit from the permitted developments rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must only involve building operations reasonably necessary to convert the building in accordance with the definition at Q(b) and Q.1(i). From my own observations of the barn, and based on the evidence before me, it has not been demonstrated that the required works would be limited to building operations reasonably necessary to convert the building, so as to be permitted development under Class Q.
15. I conclude that the proposed change of use would not satisfy the requirements of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, with regard to the associated guidance within the PPG, and therefore is not development permitted by it.

Prior approval

16. The Council indicated that prior approval would be required for the design and external appearance of the building, due to the proximity to Grade II listed buildings. However, given my conclusion that the proposed change of use would not be development permitted under Class Q, there is no need for me to consider the prior approval matters as it would not alter the outcome of the appeal.

Conclusion

17. For the reasons given and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Consequently, it is development for which an application for planning permission would be required. This would be a matter for the local planning authority to consider in the first instance, and cannot be addressed under the prior approval provisions set out above. The appeal is, therefore, dismissed.

Gareth Wildgoose

INSPECTOR