The Planning Inspectorate

Appeal Decisions

Site visit made on 28 February 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 31st March 2017

Appeal Ref: APP/L3245/W/16/3164599
Building A, Rose Cottage (or Rose Villa), Prees Green, Whitchurch, Shropshire SY13 2BN

- 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) Order 2015.
- The appeal is made by Mr Don Carissimo against the decision of Shropshire Council.
- The application Ref 16/01540/PMBPA, dated 7 October 2015, was refused by notice dated 6 June 2016.
- The development proposed is the change of use from agricultural to residential use.

Appeal B Ref: APP/L3245/W/16/3164628
Building B, Rose Cottage (or Rose Villa), Prees Green, Whitchurch, Shropshire SY13 2BN

- 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) Order 2015.
- The appeal is made by Mr Don Carissimo against the decision of Shropshire Council.
- The application Ref 16/01541/PMBPA, dated 7 October 2015, was refused by notice dated 6 June 2016.
- The development proposed is the change of use from agricultural to residential use.

Decision

1. Appeal A is dismissed.

2. Appeal B is dismissed.

Procedural Matters

3. As set out above there are two appeals on this site. Although I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated. For conciseness, I have used the description of the proposals as set out in the Council's decision notices.

4. Schedule 2, Part 3, Paragraph Q.1of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) sets out a number of limitations to the scope of permitted development rights, set out at sub-paragraphs a to m. If a development falls outside the scope of those limitations, it would not constitute permitted development and planning permission would be required. Where development falls within the scope of the limitations it is permitted subject to the requirement that the developer must

apply to the local planning authority for a determination as to whether prior approval will be required for a number of matters, as set out at paragraph Q.2.

5. In this instance the Council refused the applications on the basis that the proposals were not permitted development under Class Q.(b) and Q.1(i). In addition, the Council also refused the applications under paragraph W(3)(b) on the basis that insufficient information was submitted in respect of the extent of structural work required. Furthermore, the Council considered that the proposals fail to satisfy Q.2(1) (c), (d), (e) and (f).

6. The initial application submission did not include details regarding alterations to the roof. However, in an email to the Council, dated 12 May 2016, the appellant's agent, Mike Lapworth, confirmed that both roofs could be over clad with insulation. The applications were determined on this basis. Whilst the Council did not appear to address Q.1(g) in their consideration of the applications, as the decision maker I am required to consider whether the proposal would meet the terms of the Order and I see no reason why the terms of paragraph Q.1(g) should not apply to my decision. Consequently, in addition to the points raised by the Council, I have considered whether the proposal would fall within the scope of permitted development, taking account of the limitations of paragraph Q.1(g). Both parties have been given the opportunity to comment on this matter and I have taken account of their responses in my determination of the appeals. I note that the appellant's response suggests that the insulation could be provided internally on Building A and would be internal on Building B. However, such modifications to the proposals would be significant alterations the schemes considered by the Council. Accordingly, I have determined the appeals on the basis that the insulation would over clad the existing roofs.

Main Issues

7. The main issue is whether or not the proposed developments would constitute permitted development in respect of Class Q(a) and Q(b) of the GPDO 2015, and, if it would, then whether or not it would require prior approval in respect of the accompanying conditions set out in paragraph Q.2.

Reasons

8. The proposed conversions would comprise a number of internal and external alterations to both of the buildings, including the replacement/installation of new windows and doors, the recladding of external walls and alterations to the roofs as I have referred to above. The appellant's evidence confirms that the existing structural framework of the buildings can accommodate the proposed works and there is no evidence before me to suggest otherwise.

9. Q.1(i) allows for, amongst other things, the installation or replacement of windows, doors, roofs, or exterior walls…to the extent reasonably necessary for the building to function as a dwellinghouse. The existing buildings comprise solid walls and roofs and are capable of conversion. Whilst the proposed works would be extensive, they would be reasonably necessary to enable the buildings to function as dwellinghouses. Although the works would involve the partial demolition of the buildings, particularly through the removal of existing wall cladding, the structural frame of the buildings would be retained and I do not consider that this would go beyond the scope of works permitted under Q.1(i), which allows for the replacement of exterior walls.

10. I have had regard to the Council's reference to a recent High Court judgement[1]. In this instance, given the structural integrity of the existing buildings and that the proposed works, including partial demolition, would be reasonably necessary, I do not consider that it would amount to a rebuild in either case.

11. The Council raise particular concern that there are no details regarding new lintels above doors and windows, which could change the character of the buildings and potentially require the need to increase their size/height. However, I see no reason why new/replacement doors and windows could not be accommodated within the buildings without increasing the height of the buildings, as indicated by the appellant.

12. Notwithstanding the above, the aforementioned alterations to the roofs would likely raise the height of both buildings. Whilst it is not clear how thick the insulation would be, the photographs of a similar system being installed on a listed building in Bath suggests that it would add significant height to the existing roofs. Q.1(g) states that development is not permitted by Class Q if the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. I note the appellant's argument that Q.1(i) allows for the installation/replacement of a roof. However, I do not agree that such works override the requirement of Q.1(g). It is reasonably feasible for the installation or replacement of a roof to match, or indeed reduce, the existing dimensions and therefore comply with both Q.1(g) and Q.1(i).

13. I have also had regard to the appellant's contention that Q.1(g) is intended to relate to floor space. However, if that was the case, then it would be worded as such rather than making reference to *external dimensions.* In this instance, as the roof heights would be increased due to the thickness of the insulation, it would inevitably extend the buildings beyond their existing dimensions and therefore fail to satisfy Q.1(g).

14. I note the appellant's reference to developments elsewhere whereby the proposed method of roof insulation was accepted. However, there is no evidence that these developments were permitted development, for which the prior approval procedure is considerably different to that of a planning application.

15. I find therefore that the proposals would not constitute permitted development in respect of Class Q of the Order. As a result, there is no need to consider whether or not the proposals would require prior approval in respect of the accompanying conditions set out in paragraph Q.2.

Conclusion

16. For the reasons given above I conclude that the proposals are not permitted development and the appeals should be dismissed.

Alexander Walker

INSPECTOR

[1] *Hibbitt* v *Secretary of State for Communities and Local Government* [2016] EWHC 2853