The Planning Inspectorate

Appeal Decision

Site visit made on 14 August 2019

by E Griffin LLB Hons

an Inspector appointed by the Secretary of State

Decision date: 13 September 2019

Appeal Ref: APP/B3438/W/19/3230017
Heath House Farm Cottage, Ostlers Lane, Cheddleton, Staffordshire ST13 7DQ

- 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 (as amended).
- The appeal is made by Mr John Carr against the decision of Staffordshire Moorlands District Council.
- The application Ref DET/2018/0043 dated 20 November 2018 was refused by notice dated 28 January 2019.
- The development proposed is the change of use of an existing agricultural building into a single dwelling.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) whether the proposal would constitute permitted development in accordance with Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)(the GDPO) and (ii) whether biodiversity is a relevant consideration within this appeal.

Procedural Matters

3. Class Q of the GPDO permits development consisting of (a) 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 (dwelling houses) of the Schedule to the Use Classes Order and (b) of building operations reasonably necessary to convert the building to such a use. The area of dispute between the parties is whether the proposed works go beyond those considered to be reasonably necessary.

Whether permitted development under Class Q

4. Schedule 2, Part 3, paragraph Q.1 of the GPDO then goes on to deal with exceptions where development would not be permitted. Development is not permitted if it would consist of building operations other than (i) the installation or replacement of (aa) windows, doors, roofs or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary

for the building to function as a dwelling house; and (ii) partial demolition to the extent reasonably necessary to carry out such building operations.

5. In this context, the judgement in the case of Hibbitt & Anor v Secretary of State for Communities & Local Government & Ors (the Hibbitt judgement) is relevant. The Hibbitt judgement addresses the extent to which building operations to facilitate residential use may be considered to amount to 'conversion' of the relevant agricultural building. Briefly summarised, it explains that where the nature of works proposed would be so fundamental as to effectively result in a rebuilding of the relevant building based on planning judgement, this is not permissible.[1]

6. Following the Hibbitt judgement, the Planning Practice Guidance (the 'PPG') was amended. It sets out that it is not the intention of the permitted development right to include the construction of new structural elements of the building and it is only in circumstances where the existing building is ready for conversion to residential uses that the building would be considered to have the permitted development right.

7. The appeal building is a steel framed structure with profile sheeting to the roof. The eastern elevation which would form the front of the dwelling has an opening to the middle and walls made of brick with wood panelling on top. The other three elevations have concrete panels with profile sheeting on top and there is a second gap in the southern elevation. I do not disagree with the appellant's view that the building appears to be in good condition and it was in use for the storage of hay at the time of my site visit.

8. The proposed work includes installation of windows and doors and blockwork around the perimeter to create a cavity for insulation. On three sides of the building, the profile sheeting would be replaced with timber boards and the concrete boards with brickwork to match the existing front elevation. The corrugated sheeting to the existing roof would be replaced with grey profiled composite steel sheeting. With the exception of the concrete ground floor, the steel frame and brickwork and timber to the eastern elevation, the rest of the building would be stripped back and replaced.

9. The external changes would include reducing the current gaps in the south and east elevations and creating a new gap in the west elevation. Each new gap would have double doors and surrounding feature glazing. Four new windows would be added to the north elevation. The appellant indicates that removing the concrete panels and replacing them with brickwork and replacing the roof covering are intended to improve the external appearance of the building. Whilst, visual improvements may be desirable they are not reasonably necessary for the building to function as a dwelling house. The overall changes proposed are extensive and three sides of the existing building and the roof would effectively be replaced.

10. I am therefore not satisfied on the basis of the information before me that, considered cumulatively, such fundamental changes could reasonably be described as conversion as opposed to rebuilding.

[1] In particular as set out in paragraph 27.

11. The proposal would therefore not accord with the limitations set out in Schedule 2, Part 3, paragraph Q.1(i) of the GPDO, considered with reference to the Guidance and taking account of the Hibbitt judgement. Accordingly, I conclude that the proposal is not permitted development.

Biodiversity

12. Although the Council has put forward ecological concerns as a reason for refusal, ecology is not a determinative matter within the remit of this appeal. Even if I had been minded to allow the appeal, where permission is granted pursuant to a general development order, the safeguarding of protected species and their habitats would be dealt with under other legislation where set procedures apply before commencement of any development.

Other Matters

13. The appellant has referred me to an appeal decision at Hayes Gate Farm, in Staffordshire [2] which the appellant considers to have many similarities with this appeal. I have limited information about that appeal but note that the Inspector indicated that the works proposed would retain the majority of the existing structural elements. Similarly, a second appeal decision at Newport, Shropshire[3] stated that "taken as a whole, I consider that the proposed works are reasonably necessary for the change of use." Each appeal involves different individual circumstances and has to be considered on its own merits.

Conclusion

14. For the reasons given, the appeal is dismissed.

E Griffin

INSPECTOR

[2] Ref APP/B3438/W/18/3202031
[3] Ref APP/C3240/W/17/3181573