



Appeal Decision

Site visit made on 7 December 2021

by Samuel Watson BA (Hons) MSc MRTPI

An Inspector appointed by the Secretary of State

Decision date: 24 January 2022

Appeal Ref: APP/N1025/W/21/3277013

Flourish Farm, Spondon Road, Dale Abbey DE7 4PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval requires under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Ms Joyce White against the decision of Erewash Borough Council.
 - The application Ref ERE/0421/0067, dated 20 April 2021, was refused by notice dated 25 May 2021.
 - The development proposed is the change of use of an agricultural building to 3 dwellings under Class Q of the General Permitted Development Order.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for the change of use of an agricultural building to 3 dwellings under Class Q of the General Permitted Development Order, at Flourish Farm, Spondon Road, Dale Abbey DE7 4PQ, in accordance with the terms of the application ERE/0421/0067, dated 20 April 2021. The application is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2(3) of the GPDO.

Preliminary Matters

2. I have taken the description of development in the heading above from the planning application form but I have removed the reference to the appeal site address as it is superfluous.

Main Issues

3. The main issues are whether the appeal building is capable of functioning as a dwelling and whether the proposed development would fall within the definition of development permitted by Schedule 2, Part 3, Class Q of the GPDO.

Reasons

4. The appeal building is a simple structure formed of a metal framework with walls in a mixture of concrete blockwork and metal and timber cladding. The front elevation of the barn is open up to a point just below the eaves, above which the gable has been filled in. There are two further openings on a side

and rear elevation, although these are significantly smaller than that on the front.

5. From the evidence before me, and my observations on site, I find that the building, including its framework, are structurally sound. Whilst the appellant's structural report suggests that some strengthening may be needed, this relates to the wall and roof cladding, and not the structural integrity of the building itself. Therefore, and mindful of Paragraph 105 of the Planning Practice Guidance (the PPG), I find that the building would be capable of functioning as three dwellings.
6. As part of such a change of use, Class Q.1(i)(i)(aa) allows for the installation or replacement of exterior walls, to the extent reasonably necessary for the building to function as a dwellinghouse. In this case the proposal includes the installation of new external walls to the front, one side and the rear elevations to close up the openings outlined above. Whilst these openings may appear large in themselves, they make up only a relatively small proportion of the building as a whole. As such I do not find that closing these openings, or the proposed works cumulatively, would be so significant that the scheme should be considered tantamount to a rebuilding of the barn. Therefore, and as the building is capable of functioning as a residential use, these works would be reasonably necessary.
7. Based on the evidence provided, I am satisfied that the structural integrity of the building is sound and would form an integral part of the new dwellings. The building operations would also be reasonably necessary in this instance and would not exceed the limitations set out in Paragraph Q.1(i) of the GPDO.

Other Matters

8. It appears from an extract from the Council's Definitive Map and Statement that a public right of way runs through the appeal building. Any grant of planning permission for development, including any permission granted under Article 3 and Schedule 2 of the GPDO, does not authorise any obstruction to a public right of way. The impact of the proposed change of use on the public right of way identified here is outside of my remit to decide whether prior approval ought to be granted in accordance with condition Q.2, and success in this appeal would not enable the developer to stop up or divert the right of way.
9. Under s257 of the Town and Country Planning Act 1990, the local planning authority may by Order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with a planning permission granted under Part III of the Act – which would include a planning permission granted by the GPDO.

Conclusion

10. For the reasons given above, I conclude that the appeal should be allowed and prior approval granted.

INSPECTOR