



Appeal Decision

Site visit made on 14 September 2020

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2020

Appeal Ref: APP/Y2736/W/20/3253605

High Penhowe Farm House, Burythorpe, Malton YO17 9LT

- 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 G Benson against the decision of Ryedale District Council.
 - The application Ref 19/01415/GPAGB, dated 19 December 2019, was refused by notice dated 6 May 2020.
 - The development proposed is described on the appeal form as change of use of agricultural building to form 1no. five bedroom dwelling (Use Class C3).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A unilateral undertaking has been submitted in respect of the demolition of buildings in the vicinity of the appeal site. I have had regard to this undertaking when reaching my decision.

Main Issue

3. The main issue is whether the proposal would be permitted development.

Reasons

4. Class Q of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits the change of use from an agricultural building to residential use. This includes building operations which are reasonably necessary to convert the building. As set out in the Planning Practice Guidance, it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
5. The appeal site is part of a cluster of buildings, and consists of a steel portal frame structure. A Structural Inspection Report¹ concludes that the building is in a sound and stable structural condition and suitable for conversion to a habitable dwelling. However, I saw that significant areas of the elevations

¹ Marsh Design Limited, Ref: MDL - 3370, Date: 28 November 2019.

were open, although some lower level blockwork elements remained as well as extents of vertical boarding. I also saw that the roof of the building appears to be intact and there is a lean to structure on one elevation. The appellant indicates that the roof covering may be retained, or replaced with lightweight sheeting.

6. The existing building includes an extent of vertical boarding, and there are some contradictions in the appellant's evidence in respect of this. A plan showing the surface area states that this boarding will be retained, whereas the appellant's Statement of Case refers to "... areas of boarding replaced with internal insulation works". In any event, I saw that this boarding included gaps which enabled the penetration of light and a flow of air into the building. As such I do not consider that this element of the external fabric contributes to the suitability of the building for conversion to a residential structure. I acknowledge that the use of internal insulation is common in proposals such as this. But, in my view, the insubstantial nature of the existing boarding would result in an extent of works which would go beyond a conversion, particularly when combined with the extent of further walling material elsewhere on the building.
7. In his Statement of Case, the appellant submits that the proposal involves the retention of 66% of the present building external fabric. Whilst that may be so, this in itself does not indicate that the building is capable of conversion. Based on what I have seen and read, further substantial walling material would be required on all elevations of the building.
8. I acknowledge that substantial works can fall within the scope of Class Q. But nevertheless they should comprise of a conversion of the building rather than a rebuild, and I have had regard to the *Hibbitt*² judgement on this matter. To my mind, the scale and nature of the works would involve rebuilding work which would go beyond what is reasonably necessary to convert the building to a residential use and would in effect represent a rebuild. Even if the roofing material is retained, the extent of works to the elevations exceeds what could reasonably be described as a conversion.
9. Drawing the above together, I conclude that the proposal would not fall within the scope of Class Q.1 (i) of Part 3 of the GPDO and would therefore not be permitted development.

Other Matters

10. I note the appellant's concerns in relation to the advice from the Council leading up to demolition works within the site. However, this is not a matter for this appeal which I have determined on its planning merits.
11. The appellant contends that the Council's approach is affected by the nature of the host building, which the Council in its Appeal Statement interprets as relating to the modern design of the building. However, the Council's reason for refusal does not refer to this issue and there is no substantive evidence that the Council's consideration of this proposal was inappropriate.
12. My attention has been drawn to a number of decisions elsewhere in support of the proposal. However, on the basis of the evidence before me, I am not

² *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin).

persuaded that these represent a direct parallel to the appeal proposal, including in respect of the extent of the proposed works or the scope of the application. In any event, I have determined this appeal on its own merits.

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR