



Appeal Decision

Site visit made on 25 July 2017

by **David Reed BSc DipTP DMS MRTPI**

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

Decision date: 18 August 2017

Appeal Ref: APP/P1425/W/17/3170756

Sharpsbridge Farm, Sharpsbridge Lane, Piltdown, Uckfield, East Sussex TN22 3XG

- 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 & Mrs A Bone against the decision of Lewes District Council.
 - The application Ref LW/16/0793, dated 12 September 2016, was refused by notice dated 23 November 2016.
 - The development proposed is the change of use of an agricultural building to three dwellinghouses (Class C3).
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Decision

1. The appeal is dismissed.

Main Issues

2. The dispute concerns three of the requirements listed in paragraph Q.1 of the 2015 Order for permitted development rights under Class Q. In addition, prior approval has been refused for one matter in paragraph Q.2 (1) of the Order.
3. Consequently, the main issues in this case are:
 - whether the building was used solely for an agricultural use as part of an established agricultural unit on 20th March 2013, if vacant on that date when last in use, or if brought into use after that date for a period of at least ten years;
 - whether the total floor space of the existing building changing use exceeds 450 square metres;
 - whether the building operations necessary for the building to function as three dwellinghouses amount to a conversion or exceed those permitted;
 - and, if these requirements are met, whether prior approval should be given due to the contamination risks on the site¹.

Reasons

Agricultural use

4. It is a fundamental requirement for permitted development under Class Q that the building concerned is an agricultural building that meets the detailed

¹ The requirements in paragraphs Q.1 (a), Q.1 (b), Q.1 (i) and Q.2 (1) (c) of the 2015 Order respectively.

eligibility criteria under paragraph Q.1(a). In this case the building is a long chicken shed, one of three operated as part of an agricultural enterprise by Grampian Chicken until about 2004 after which the appellant bought the site. The appellant states that the building and surrounding land was then leased out to another person until the end of 2010 for use by sheep and the storage of hay/straw, after which the building was kept vacant until a new storage use commenced a year or so ago, well after 20th March 2013.

5. When the Council's officer visited the building during Autumn 2016 it was partly being used to store a number of cars (vintage/limousine/wedding types) and building materials (brick, tiles, paints, scaffolding, timber etc). Several photos submitted by the Council corroborate these storage uses. The site visit carried out for the appeal in July 2017 confirmed a similar position, namely that most of the building was empty but there was some non-agricultural storage of cars and building materials taking place.
6. Given this planning history it is not clear whether the use of the building between 2004 and 2010 was for agricultural purposes *as part of an established agricultural unit*. This would depend on the nature of the agricultural operation undertaken by the user of the building and the terms of the lease about which no details are provided. Whilst relevant, the Council have not investigated this issue and it does not form part of their case.
7. In any event, since at least Autumn 2016, the building has developed in part a non-agricultural storage use. Probably unwittingly, this has superseded the status of the building as at 20th March 2013 whether or not the building was fully vacant on that date and whether or not the previous agricultural use was as part of an established agricultural unit. Now that the building is clearly not solely in agricultural use the permitted development rights under Class Q do not apply. The position as at 20th March 2013 does not secure and preserve those rights regardless of the later use of the building.

Floor space

8. The chicken shed is large, about 1,210 sq m in size, which exceeds the limit of 450 sq m for the floor space of the existing building (or buildings) changing use under Class Q within a single agricultural unit. However, the proposal is to demolish much of the building to leave three identical smaller buildings for subsequent residential use. Each detached dwelling would have a floor area of 146 sq m, totalling 438 sq m in all, which would be within the 450 sq m limit.
9. The Council argue that the size of the existing building exceeds the 450 sq m limit and thus the Class Q rights do not apply. However, Article 2(1) of the 2015 Order makes clear when interpreting the order that the term 'building' includes 'any part of a building'. The proposal to demolish much of the building to bring it within the 450 sq m limit therefore satisfies this requirement for permitted development rights to apply under Class Q².

Building operations

10. The existing chicken shed building is about 110 m long by 11 m wide and is system built with a series of timber frames at three metre intervals along the barn, each with twin upright posts internally. The external walls are of

² In the precedent quoted by the Council, appeal ref. APP/L3245/W/15/3097735, the Inspector seems to have erred in this respect.

blockwork with timber cladding above and the roofs of corrugated asbestos sheeting supported by timber purlins which span between the timber frames.

11. The proposal is to demolish two intervening sections of the building to create three separate structures on the same alignment with gaps between. All the external walls of the building would also be demolished and new external walls constructed for the dwellings within the footprint of the building but unrelated to the framework of upright posts which would be retained. The new external walls would be of timber cladding and the existing pitched roofs replaced with aluminium insulated panels.
12. The application was accompanied by a letter from Dixon Hurst Structural Engineers dated 17th May 2016 which concluded that the building is "suitable for conversion for residential usage without major building or intrusive strengthening". However, the letter does not refer to the designs prepared by Atelier Six Architects which are dated July 2016 and involve the construction of new exterior walls. In the absence of detailed structural drawings and associated calculations relating to the actual design proposed it has not been clearly demonstrated that the retained timber frame would be structurally strong enough to support the external works³. Further structural roof timbers may be required and the new outside walls may involve new structural elements to support the external timber cladding which is proposed.
13. In any event, the building operations necessary for the building to function as three dwellings would be excessive. Nearly two thirds of the building would be demolished with external walls, windows and doors erected in new positions and a replacement roof. The building would be unrecognisable in its present form and the only elements which would be retained would be part of the concrete floor and timber frame. Notwithstanding that the installation and replacement of windows, doors, roofs and exterior walls are included in the description of permissible works under Class Q, the necessary works in this case would go well beyond what could reasonably be described as a conversion of the building. This is a prerequisite for the permitted development right to apply. The works would amount to three substantially rebuilt structures and this significantly exceeds the extent of works permissible under Class Q⁴.

Contamination

14. In view of the conclusions reached above this issue does not need to be addressed in this appeal decision.

Conclusion

15. The proposal would not meet requirements Q.1 (a) and Q.1 (i) of the 2015 Order for permitted development rights under Class Q. The appeal should therefore be dismissed.

David Reed

INSPECTOR

³ Planning Practice Guidance Paragraph 015 reference ID:13-105-20150305 makes clear that the permitted development right does not include the construction of new structural elements for the building.

⁴ The Council referred to *Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* 2016 EWHC 2853 (Admin) which had some similarities.