
Appeal Decision

Site visit made on 26 April 2016

by Helen Heward BSc (Hons) MRTPI

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

Decision date: 24 May 2016

Appeal Ref: APP/H0738/W/15/3140603

Land at Woodside Farm, Wynyard Road, Thorpe Thewles, Stockton on Tees

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr and Mrs Phil and Pauline Wood against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 15/2348/PDA, dated 21 September 2015, was refused by notice dated 12 November 2015.
 - The development proposed is change of use of an existing agricultural building to a dwelling house (Use Class C3) with external alterations (fenestrations). No change to siting or location of the building.
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Decision

1. The appeal is dismissed.

Application for costs

An application for costs was made by Mr and Mrs Phil and Pauline Wood against Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

Procedural Matters

2. After the site visit the appellant's agent sought to submit additional information by way of an email dated 28 April 2016. A number of new documents were attached regarding two cases determined in November 2014 and September 2015.
 3. Section 1.6 of the Procedural Guide for Planning Appeals – England, March 2016, explains that all available evidence should be submitted by the appellant with their full statement of case when they make their appeal. The deadline for submission of final comments on this appeal passed in February 2016. No reason was given for the late submission of this evidence which could have been submitted earlier. Therefore the information relating to these two cases was declined and returned.
 4. A copy email from Billingham George & Partners Structural Engineers and Building Surveyors dated 28 April 2016 was accepted as a minor clarification of existing evidence and forwarded to the Council for their views. I have had regard to this, and the Council's response in an email dated 13 May, in reaching my decision.
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Background

5. A previous prior notification appeal¹ for a change of use of the barn to a dwelling was dismissed in April 2015. Paragraph 11 of the Inspector's decision letter states that "*no conclusive detailed evidence has been placed before me that the extent of the retained structure would be capable of bearing the loading of the walls and roof of the proposed conversion of the building to a dwelling*" and "*in the absence of any evidence that this adequacy has been established, I conclude that it has not been demonstrated that the existing building would be structurally strong enough to take the loading of the works, and therefore benefit from the permitted development rights*".
6. The Inspector found that the development would not accord with advice in the national Planning Practice Guidance (PPG) for the change of use of agricultural buildings, and all the relevant provisos contained in paragraph MB.1 of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (1995 GPDO).
7. The 1995 GPDO has been replaced by The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The relevant permitted development provisions are set out in Schedule 2, Class Q. This class provides, in summary, for (a) a change of use of a building from a use as an agricultural building to a dwelling house and (b) for "building operations reasonably necessary to convert the building".
8. Paragraph 109 of the PPG (revision date 5 March 2015) advises that "*a local planning authority should start from the premise that the permitted development right*" [under Class Q] "*grants planning permission, subject to the prior approval requirements.*"
9. In relation to structural elements paragraph 105 of the PPG includes advice that "*the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling.*" And "*It is not the intention of the permitted development rights to include the construction of new structural elements for the building. Therefore it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for the residential use that the building would be considered to have the permitted development right*"².
10. A Structural Inspection Report by Billinghamst George & Partners Structural Engineers and Building Surveyors (Report)³ has been submitted for this appeal.

Main Issue

11. Whether the agricultural building is capable of conversion to a functioning dwelling with particular regard to the building operations required and the structural loading capability of the existing building.

¹ APP/H0738/A/14/2227055

² <http://planningguidance.communities.gov.uk/blog/guidance/when-is-permission-required/what-are-permitted-development-rights/permitted-development-rights-for-the-change-of-use-of-agricultural-buildings> - see

Paragraphs: 105 and 109 Reference ID: 13-105-20150305 and: 13-109-20150305

³ 21 August 2015 Structural Inspection, Barn Conversion Works, Woodside Farm, Wynyard Road, Thorpe Thewles

Reasons

12. The existing steel frame of the building includes eight vertical columns/posts. Some 'A frames' appear to be supporting a few rows of metal purlins and a metal ridge over which a corrugated sheet roof is laid. The building has a concrete floor and brick walls of various heights on three sides. The depth of these walls has been exposed.
13. The Report, based on a visual inspection, indicates that whilst the steel posts could carry the load of the roof for the proposed dwelling, the roof would require new prefabricated structural timber elements. From my observations of the existing roof structure I find that on the balance of probability this would be likely to amount to a new load bearing roof, and a significant component of the external structure required to create a dwelling.
14. It is not disputed that the brick walls were previously higher, or that the remaining walls on three sides of the building could carry the load of new brickwork above. However, the Report is not clear in other respects. For example it is not clear how the existing building would carry the loading of a new gable end wall where the barn is presently open.
15. The submitted drawings indicate that to create a three bedroom dwelling ground and first floor accommodation would be created. An email dated 28 April 2016 from Billingham George & Partners advises that "*the internal load-bearing timber framed structure will consist of the inner insulation lining stud walls around the perimeter, together with the internal walls at ground floor level. The structure will only support the first floor construction and any loads that are applied to it – first floor partition walls and general domestic loading. It will not be supporting the main roof structure or other loading from the external walls.*"
16. Nonetheless, from the scant evidence before me, I consider that this new frame would be likely to amount to a substantial new building structure and a significant element of the building works required to create a dwelling.
17. I conclude that the evidence does not demonstrate that the existing agricultural building is capable of conversion to a functioning dwelling without the construction of significant new structural elements. Such building operations as described in the application and supporting information would go beyond works that could reasonably be described as conversion of the existing building. I further conclude that the submitted evidence does not clearly demonstrate that the existing building is structurally strong enough to take the loading which comes with the external works necessary to provide for the proposed residential use.
18. Therefore the existing barn does not benefit from the permitted development right for the change of use of an agricultural building to a dwelling provided in Schedule 2, Class Q of the 2015 GPDO.

Other Matters

19. The Council concluded that the proposal did not meet the requirements of paragraph Q.1(i)(i) and (ii) of the 2015 GPDO. These requirements are the same as those previously set out in Schedule 2, Class MB paragraph MB.1(i)(i) and (ii) of the 1995 GPDO.

20. The appellant argues that the previous Inspector found these requirements to be satisfied. As the proposal does not benefit from the permitted development right for the change of use of an agricultural building to a dwelling provided in Schedule 2, Class Q of the 2015 GPDO it is neither necessary nor appropriate to assess the proposal against these criteria. Similarly, the other restrictions and limitations of paragraph Q.1 are not relevant.
21. There are few details about other appeal cases referred to in the Planning Officer's report. The appellant has included a drawing⁴ for a dwelling at 'The Green, Wolviston', described as a 'replacement dwelling'. As such it is not relevant and in any event this case is one that turns on the evidence and facts of the proposal. Therefore these matters attract very little weight.

Conclusions

22. The permitted development right for the conversion of an agricultural building to a dwelling house does not apply to this building because the evidence does not demonstrate that the existing agricultural building is capable of conversion to a functional dwelling without the construction of significant new structural elements which would go beyond works that could reasonably be described as conversion of the existing building. In addition the evidence does not clearly demonstrate that the existing building is structurally strong enough to take the loading which comes with the external works to provide for a functioning two storey residential dwelling.
23. Therefore the appeal should be dismissed.

Helen Heward

PLANNING INSPECTOR

⁴ Drawing No 1513.P.01