

Appeal Decision

Site visit made on 5 July 2016

by Rory Cridland LLB (Hons)

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

Decision date: 15 August 2016

Appeal Ref: APP/Q3305/W/16/3146648

Agricultural Building at Bennetts Lane, Binegar, Somerset.

- 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 BW & MA Carter against the decision of Mendip District Council.
 - The application Ref 2015/1796/PAA, dated 23 July 2015, was refused by notice dated 18 September 2015.
 - The development proposed is change of use of an agricultural building and land within its curtilage to a dwelling.
-

Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of an agricultural building and land within its curtilage to a dwelling at Agricultural Building at Bennetts Lane, Binegar, Somerset in accordance with the terms of the application Ref 2015/1796/PAA, dated 23 July 2015, and the plans submitted with it, subject to the following condition:
 - 1) *No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.*

Application for costs

2. An application for costs was made by the BW & MA Carter against Mendip District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposal would be excluded from Permitted Development under Class Q due to the cumulative floor space of the building changing use within the agricultural unit exceeding 450m².

Reasons

4. Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order") permits development consisting of a change of use of a building and any land within its curtilage, from a use as an agricultural building to a dwelling house together
-

with building operations reasonably necessary to convert it. However, paragraph Q.1(b) excludes such development where the cumulative floor space of the existing building changing use within an established agricultural unit exceeds 450m². The term "building" is defined by the Order as including "any part thereof".

5. The proposal would result in a change of use of part of the existing agricultural building, currently measuring around 960m² of floor space, to a residential dwelling house with a floor space measuring approximately 449m². The appellants propose to demolish the remaining part of the building but retain agricultural use of the land by returning it to pasture. The Council however contend that paragraph Q.1(b) limits such conversions to smaller agricultural buildings which fall below the 450m² threshold.
6. Although I acknowledge that the wording of paragraph Q.1(b) of the Order is not explicit on this point, when read in conjunction with the definition of 'building' set out in Article 2(1) of the Order, there is a strong indication that the paragraph permits the part conversion of an agricultural building. This is supported by Planning Practice Guidance (PPG)¹ which states that "the maximum floor space that may be converted is 450m² of floor space of a building or buildings within a single established agricultural unit". As such, I find that paragraph Q.1(b) of the Order allows for the part conversion of an agricultural building provided that total floor space to be converted does not exceed 450m².
7. I also note the correspondence from the Department for Communities and Local Government ("DCLG") which indicates that, in their view, the maximum of 450m² referred to relates to the area to be converted and not to the total floor space of the existing building. Furthermore, I have been provided with a copy of a recent appeal decision² which considered this point and where the inspector agreed with DCLG's approach and concluded that the PPG has provided clarification of the operation of the prescribed limit of 450m².
8. I agree with the conclusions arrived at by the Inspector and the approach taken in the DCLG correspondence. While I note that the Council argues that the PPG relates solely to paragraph Q.1(h), I have seen nothing which would lead me to conclude that this is the case. It therefore follows that provided that the total amount of floor space to be converted does not exceed the maximum set down, it will not be caught by the exclusion set out in paragraph Q.1(b). For completeness, I would add that the resultant dwelling would also fall within the maximum limits set down in paragraph Q.1(h) of the Order.
9. Accordingly, I find that the proposal is not excluded by virtue of paragraph Q.1(b) and in the absence of any specific exclusion which would justify withholding permission, I conclude that the development falls within the Class Q permitted development regime.

Other matters

10. My attention has been drawn to a previous appeal decision on this site³ where the Inspector reached a different conclusion in relation to the operation of paragraph Q.1(b). Although I have had regard to the conclusions reached by

¹ Ref ID 13-104-20150305; Para 104

² Ref: APP/J1915/W/15/3137535

³ Ref: APP/Q3305/A/14/2229199

that Inspector, that decision was determined before the introduction of the PPG⁴ and without that inspector having seen the correspondence from DCLG, both of which provide additional clarification and which I regard as material in the determination of this appeal. As such, I afford that decision limited weight.

Conditions

11. I have had regard to the Council's suggested conditions. A condition requiring the development to be carried out in accordance with the approved plans is appropriate in the interests of proper planning and for the avoidance of doubt. However, while I regard a sampling condition relating to the external materials as necessary in the interests of character and appearance, I agree with the appellants that the conditions suggested are overly restrictive and have amended them accordingly. Furthermore, in the absence of any detailed explanation, I consider the proposed condition requiring the submission and approval of external joinery as unnecessary.

Conclusion

12. For the reasons given above I conclude that the appeal should be allowed.

Rory Cridland

INSPECTOR

⁴ March 2015