

Appeal Decision

Site visit made on 19 December 2016

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

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

Decision date: 2 February 2017

Appeal Ref: APP/V3310/W/16/3160734

OS 7426, Farm Building, West Stoughton, Wedmore, Somerset BS28 4PW

- 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, Paragraph Q.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr John Denbee against the decision of Sedgemoor District Council.
 - The application Ref 50/16/00038, dated 8 June 2016, was refused by notice dated 18 July 2016.
 - The development proposed is the change of use of the single storey farm building to residential with ancillary parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether the development is permitted by the Order, and
 - ii) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to use as a dwellinghouse.

Reasons

Whether permitted by the Order

3. The appeal building is a small barn used at the time of my visit for housing calves, located on the south side of a small farmyard which serves other agricultural buildings, and is close to an almost completed bungalow which is subject to an agricultural occupancy condition.
 4. The main, rear wall of the barn is constructed in stone and brick. Part of it has recently been improved, which the Council suggests may have been carried out under the provisions of Part 6 of the Order, in which case the development would not be permitted by virtue of paragraph Q.1(f). However, there is insufficient evidence for me to conclude that the works are those carried out under Class 6, and not the carrying out for the maintenance, improvement or other alteration of the building which do not materially affect the external appearance of the building, which, by virtue of s.55(2)(a) of the Act, do not constitute development.
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5. In order for the deemed permission for the conversion to a dwelling to apply, the building must be capable of functioning as a dwelling. The stone and brick wall forms much of the rear elevation of the barn, but the main structural elements are the timbers to which profiled metal cladding and other materials have been attached. The timber work has been attached to the rear wall. A low concrete wall has been constructed inside the timber frame on the west side of the barn, but this appears to be a freestanding element.
6. The Planning Practice Guidance says that it is not the intention of the permitted development right 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 from the external works to provide for residential use that the building would be considered to have the permitted development right. Whilst there is no stipulation in the Order or in the Planning Practice Guidance as to what percentage of a building may be demolished, it is a matter of fact and degree as to whether a proposal amounts to a conversion or a re-build.
7. The appellant has submitted a letter from a chartered surveyor who is of the opinion that "the barn is suitable for the conversion to a residential dwelling house, subject to partial demolition". This opinion says nothing about the ability of the existing structural elements to take the loading of the new stone walls and roof which would be required to carry out a conversion, and falls well short of the details which I would expect a survey carried out by a structural engineer to provide. The Council requested a structural survey at application stage, but this was not provided.
8. In this case, the main structural element comes from the wooden frame. The timbers, although not lightweight, are not in a good condition. There is extensive evidence of woodworm and there was clear evidence of rot in the southwestern-most column. From a visual inspection, I could tell nothing of the condition of the columns below ground level. I consider that there is considerable doubt as to whether the timbers are able to support the new walls and roof, in which case, having regard to the insubstantial nature of the majority of the building, the proposal would amount to a rebuild rather than a conversion and would fall outside the scope of the permitted development.
9. My views are reinforced by the Inspector's appeal decision¹ on a previous application for a similar development, which was dismissed in March 2015. She found that there was insufficient evidence to satisfy her that the proposal would not amount to a re-build, and this applies to this proposal.
10. I therefore conclude on the first main issue that there is insufficient information to satisfy me that the proposal is one permitted by the Order.

Noise, smell and disturbance

11. The barn is within a few metres of a larger, more modern cattle barn, subject of a 2007 application. The cattle barn is open to the west and elsewhere consists of a wall of concrete blockwork to about 2m in height, above which are timber "hit and miss" slats. It has a concrete floor, and is suitable for housing livestock.

¹ Ref: APP/V3310/W/14/3000781

12. Whilst occupiers of dwellings in a very rural location such as this might expect a degree of noise, disturbance and smell from nearby farms, I am concerned that the proposed dwelling would lie cheek by jowl with a large livestock building. The construction of the livestock barn provides little sound insulation or means of inhibiting smell and in my opinion the noise and smell of livestock, such as cattle, pigs or poultry, in such close proximity to a dwelling could cause serious harm to occupiers' living conditions. Conversely, complaints about noise or smell could result in a fetter on the agricultural operations carried out on the farm, to the detriment of the business.
13. I appreciate that the existence of the barn would be obvious to any purchaser, but poor living conditions should not be seen as satisfactory merely because someone is prepared to accept them. A good standard of amenity for all occupiers of land and buildings is a core planning principle, and in my view the closeness of the two buildings makes it undesirable for the building to change to use as a dwelling house.
14. The previous refusal for prior approval to change to a dwelling did not refer to noise and thus the Inspector dealing with the subsequent appeal did not address it. Nevertheless I consider that it is an objection of substance which leads me to find against the proposal. I also note the appellant's contention that other conversions have been approved with similar relationships, but I have not been provided with any details, and thus this does not alter my conclusion.

Other matters

15. I have had regard to the other concerns raised, including parking and access, but these do not add to my reasons for dismissing the appeal. There is no requirement to show a need for the conversion, and so the existence of the bungalow subject to an agricultural occupancy condition is irrelevant.

Conclusion

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

JP Roberts

INSPECTOR