
Appeal Decision

Site visit made on 27 August 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Appeal Ref: APP/Q3305/W/19/3230878

Land at Port Way, Hemington, Somerset, BA2 7RE.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Mr Connor Swift against the decision of Mendip District Council.
 - The application Ref 2019/0453/PAA, dated 28 February 2019, was refused by notice dated 30 April 2019.
 - The development proposed is the change of use of existing agricultural building to form one dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Connor Swift against Mendip District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issue is whether the proposal would result in highway safety risks and whether the location of the proposed dwelling would be appropriate, considering the effects to future occupiers.

Reasons

4. For permitted development under Class Q, paragraph Q.2 (1) of the General Permitted Development Order requires the prior approval of certain matters. This includes a consideration of the transport and highways impacts of the development; and "whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order".
5. The Council has not stated that the development would not be permitted development under the criteria set within paragraph Q.1. I have no reason to disagree with this conclusion.

Highway Safety

6. The access to be used by the proposed dwelling would be an existing agricultural field access. The Council have stated this would need to be upgraded to allow for vision splays of 2.4m x 120m in both directions, being that this is a 60mph road. The appellant has stated that vision splays of approximately 2m x 78m to the south and 25m to the north should be provided, which would be about achievable, maybe with some additional trimming back of the hedgerow.
7. The site is in a rural location away from larger settlements. Much of the traffic is likely to be there to access the nearby farms or rural dwellings. It is unlikely that there would be much in the way of through-traffic, considering the more suitable A36 nearby, for example. However, whilst this may result in low levels of traffic, it does not mean that traffic speeds would be lower, which may have indicated a lesser vision splay being required.
8. The appellant's highway statement (prepared by Mr Roger John Witt, BSc, CEng, MICE), observed that most vehicles were travelling along Port Way at speeds approaching 30-35mph. However, the periods of observation totalled a combined time of just more than one hour. In this time only a few passing vehicles were observed. This is not a comprehensive survey of traffic volume or speeds. Even with low levels of traffic, I cannot see why a more comprehensive survey to gather evidence could not be achieved.
9. Considering the width and turns in the Port Way road it seems likely to me that most traffic would be driving at slow speeds. However, the speed limit is 60mph and so there is no control over drivers who want to drive up to this much higher speed than Mr Witt observed. The short period of observation is not satisfactory to demonstrate that speeds of closer to 60mph are uncommon or never occur on this highway at the area of the access.
10. Considering these are points of highway safety, I would take a precautionary approach and the visibility splays as stated by the appellant would not be satisfactory to acceptably ensure highway safety at the access. There is a lack of substantive evidence to convince me otherwise.
11. I recognise that this is an existing access, which could be used by slower agricultural vehicles. However, the proposal is for the use of the barn as a new dwelling which could result in an intensification of the access. Therefore, whilst the access may have been deemed acceptable by the Council for agricultural use, this does not lead me to the opinion that it would be suitable to serve as access to a dwelling.
12. My attention has been drawn to appeal decisions where the issue of highway safety has been considered but has not prevented the approval of the proposal. However, there are significant differences between this proposal and the other two appeals. For instance, in the 'Broadhempston' appeal the Inspector states that "the highways authority indicates that vehicles are more likely to be travelling at 30mph." The Council has made no such statement with this appeal. For the 'Huntley' appeal there has been no objections from the Highway Authority and the Inspector mentions the possible use of an access with "reasonable alignment, width and visibility". There is no access for this appeal scheme that I could describe in the same positive terms. In any case, I have to consider the proposal on its own merits.

13. I therefore conclude that the access to serve the proposed dwelling would result in significant highway safety impacts, as identified as an issue for determination in paragraph Q.2(1)(a) of Part 3 of Schedule 2 of the General Permitted Development Order.

Whether the location is impractical or undesirable

14. The barn which is proposed to be converted is adjacent to a field boundary. To the other side of this boundary, in close proximity, is a barn. This other barn is not within the control or ownership of the appellant.
15. The close proximity of this neighbouring barn could mean that future occupants of the proposed dwelling would be disturbed by noise from the barn or affected by odour or dust also. The appellant has stated that the neighbouring barn is mainly used for storage of hay, although does point out that it does store goats in periods of inclement winter weather. However, the use of the barn could become more active in ways that increases noise and odour for example.
16. There is a relatively thick and high hedgerow between the site and the neighbouring barn. It was pointed out to me on site that further planting to reinforce this hedgerow has commenced. This screen of vegetation would help mitigate to some extent the potential adverse impacts from the neighbouring barn.
17. I do note, as highlighted by the appellant, that the Environmental Health Officer from the Council in their consultee response did not object to the proposal. They identified possible issues and suggested doors on the far side of the barn and use of specialist windows. From the plans and after my site visit it is clear that the wide bi-fold doors are to be positioned on the far side of the barn from the boundary. Also, if there is an issue then windows facing this boundary could use windows that would minimise the impact.
18. Overall, on balance, the site of the barn proposed for conversion to a dwelling is in a location that is neither impractical or would be undesirable by reason of its proximity to a neighbouring barn. I therefore see no conflict with the requirements of paragraph Q.2(1)(e) of Part 3 of Schedule 2 of the General Permitted Development Order on this matter.

Conclusion

19. For the reason of highway safety, the appeal should be dismissed.

S. Rennie

INSPECTOR