
Appeal Decision

Site visit made on 1 October 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 October 2019

Appeal Ref: APP/Q3305/W/19/3231693

E:349318 N:139491 Dyehouse Lane, Glastonbury BA6 9QS

- 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 (as amended) (the Order).
 - The appeal is made by Mr Simon Harding against the decision of Mendip District Council.
 - The application Ref 2019/0724/PAA, dated 14 March 2019, was refused by notice dated 3 May 2019.
 - The development proposed is the change of use and conversion of an agricultural building to dwellinghouse, use class C3.
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Decision

1. The appeal is dismissed.

Application for costs

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

Procedural Matters

3. The planning application form includes as part of the description of development a reference to a list of the submitted plans. I have therefore taken the description of development from that used in the appeal form as this more fully reflects the proposed development.
4. Since the submission of the appeal, works have taken place to the building that is the subject of the appeal, which the appellant considers constitute repairs and maintenance¹ rather than the commencement of the appeal proposal. I have not seen evidence to the contrary and therefore, have no basis to dispute this. Subsequently, a similar prior approval application² to the appeal scheme was made in July 2019 and refused by the Council on similar grounds to the appeal proposal on 30 August 2019. I have considered the proposal before me based on the submitted plans and information, together with my observations from my site visit.

¹ Letter dated 11th September 2019, Nicholls, Basker and Partners

² Reference 2019/1723/PAA

Main Issue

5. The main issue is whether the proposal would be permitted development, with particular regard to whether the requirements of Class Q(b) of the Order would be met.

Reasons

Whether the proposal would be permitted development under Class Q(b)

6. Class Q(b) of the Order permits building operations reasonably necessary to convert the relevant building to a use falling within Class C3. It further states at paragraph Q.1(i) that development under Class Q(b) is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls, or water, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse.
7. The agricultural building in question is a 3 bay mono-pitch building with a steel portal frame. The evidence indicates that the walls were predominantly clad with galvanized corrugated steel sheeting, as is the roof³. When I visited the site I was able to observe that timber horizontal cladding appeared to have been recently applied to the lower section of some of the walls with painted corrugated sheeting to the upper sections. The floor has a concrete floor slab in part, but the floor plan indicates bare ground for approximately one third of the floor plan⁴ which was consistent with my observations. The lower approximately 1.2m of the south west elevation, which is where the main openings are, had a combination of timber cladding and blockwork, above which there were sections of timber frame with fly screen and metal sheeting.
8. Aside from some references to the provision of a floor slab, new openings and cladding in the letter dated 11th September 2019 from Nicholls Basker & Partners, there is limited information provided regarding the details of the intended building operations as the application form refers only to the plans and the submitted structural report⁵. Moreover, the absence of an elevational drawing for the existing structure inhibits a detailed comparison.
9. The structural report based on detailed calculations concludes that the steel frame and pad foundations are satisfactory and would be structurally capable of conversion to residential use without the need for significant new structural elements. I have no contrary evidence that the building would not be able to take the loading associated with the works proposed. Nevertheless, the scope of the structural report is confined⁶ to an investigation of the structural elements of the building, and in particular its structural stability. Hence, it does not detail, nor comment on, the extent of the proposed building operations overall.
10. From my observations and the submitted plan⁷, the proposal would replace the corrugated steel sheet roofing with profiled metal sheeting. In addition,

³ Letter dated 11 September 2019, Nicholls, Basker and Partners & Drawing 18519/SE/01

⁴ Drawing 18519/SE/01

⁵ Drawings 18.1104.02 Cladding details one, 18.1104.03 Cladding details two & 18.1104.01C Design Proposals One; Structural Survey, Nicholls Basker and Partners, Project No. 18519, dated 12.2.19.

⁶ Appendix A, Paragraph A.1 Structural Survey

⁷ Design Proposals One 18.1104.01 C including External Finishes details and Section X-X reference to new metal cladding on existing steel frame

horizontal tanalised shiplap timber boarding is shown on all four elevations to a level above window and door height which would replace other existing external materials at these levels. Colour coated profiled metal sheeting at high level is shown above to all elevations, with new external walls creating an inset in the south eastern corner to provide a car port. This would require the provision of a concrete floor slab to cover the south eastern section of the building. The existing openings in the front elevation would be infilled and new windows would be inserted into all main elevations⁸.

11. Accordingly, even accounting for the recent repair works and the view given⁹ that the majority of the sheeting and cladding can be retained, the balance of information provided does not clearly show that this would be the case. Based on the information before me it appears that the greater part of the external facing materials in the elevations and the roof would be new, albeit that they would be fixed to the retained steel frame. This is consistent with the plan and vertical section drawings 18.1104.02 and 18.1104.03 whereby the only existing material referenced in the annotations are the existing steel column and existing steel angle cladding rail. Cumulatively, the works outlined above amount to extensive building operations.
12. Planning Practice Guidance (PPG)¹⁰ advises that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling, clarifying that it is not the intention of the permitted development right in Class Q(b) to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. In this respect the PPG refers to relevant case law¹¹ to which I have had regard.
13. The caselaw established that Class Q(b) only permits building operations necessary to convert the building, and therefore if a development does not amount to a conversion then it fails at the first hurdle, even though the building operations may fall within those listed in paragraph Q.1(i). Furthermore, whether a proposal constitutes a conversion or a rebuild is a matter of planning judgement and the nature and extent of the proposed building operations are a relevant consideration in making that assessment.
14. In this particular case, from my own observations and the information in the structural report and plans, the cumulative extent of the works proposed to facilitate a residential use would be of such a considerable degree that in my view, they would go beyond what might reasonably be described as a conversion.
15. I have had regard to the 20 recent appeal decisions¹² concerning proposed conversions of agricultural buildings to dwellings which in part, related to

⁸ Drawing No.18.1104.01C Design Proposals One, Floor plan shows windows in all elevations albeit there is a discrepancy with south-east elevation drawing which omits window for Bedroom 1.

⁹ Letter dated 11 September 2019, S Blackler of Nicholls Basker & Partners

¹⁰ Paragraph 105 Reference ID: 13-105-20180615 revision date 15.06.2018

¹¹ Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

¹² Referenced APP/V3310/W/19/3221630; APP/C3105/W/18/3212286; APP/D0840/W/18/3208377; APP/R0660/W/18/3211093; APP/W1850/W/18/3216155; APP/R3325/W/18/3207255; APP/W1850/W/18/3203745; APP/J3720/W/18/3199453; APP/R0660/W/18/3205678; APP/V0510/W/18/3198442; APP/B3438/W/18/3202031; APP/R0660/W/18/3199356; APP/V3310/W/18/3202405; APP/Y2620/W/18/3195699; APP/Y3940/W/18/3196249; APP/X1545/W/18/3199978; APP/P4415/W/18/3199988; APP/K1128/W/18/3199823; APP/Y2736/W/18/3198404 & APP/N4720/W/19/3219850.

whether the requirements of Class Q(b) of the Order were met. Based on the decisions provided, the majority of those cases related to relatively modern, steel portal framed structures, most of which referred to structural reports and, in most cases, there was no significant dispute that the proposed works fell within those listed in paragraph Q.1(i). Therefore, I accept that there are some similarities in relation to the case before me and hence, they are a relevant consideration.

16. The Inspectors in those cases considered the advice in the PPG and the ramifications of the Hibbitt case and, based on the evidence before them, applied that to the particular circumstances of the case. The respective decisions indicate that the degree and nature of the building works was particular to each case. Having regard to the Inspectors' observations in many of the examples given, a greater degree of the original building fabric was retained than would be the case for the appeal proposal where the retained fabric predominantly relates to the steel frame, pad foundations and partial concrete floor slab.
17. Furthermore, unlike the appeal proposal, I do not have the benefit of the full evidence of the referenced appeal cases before me and therefore, based on the limited information provided, it is not clearly shown that any specific example is so similar in detailed circumstances to the appeal proposal in terms of the cumulative extent of building operations, that it should carry more than limited weight. In any event, I am required to reach my own judgement based on the proposal, my own observations and the evidence before me. Nevertheless, I am satisfied that my approach is reasonably consistent with those of the Inspectors in the examples given, even if, based on the information presented, it has led to a different outcome in this particular case.
18. The Council is satisfied that the proposal complies with the other restrictions and limitations specified in paragraph Q.1 of the Order, including that the use of the appeal building on the relevant date was agricultural¹³ and I have no reason to take a different view.
19. Nevertheless, it follows that on the evidence provided, the building would not benefit from the permitted development rights under Schedule 2, Part 3, Class Q(b) of the Order.

Conclusion

20. For the reasons given, I conclude that the proposal is not permitted development within Schedule 2, Part 3, Class Q of the Order. The appeal, is therefore, dismissed.

Helen O'Connor

Inspector

¹³ Pages 3 and 4 of Council's Delegated Report