



Appeal Decision

Site visit made on 18 December 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Appeal Ref: APP/D0121/W/19/3234531

Atcost barn at Glen Farm, Sandy Lane, Abbots Leigh, Bristol BS8 3SE

- 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 appeal is made by Brinkgreen Ltd against the decision of North Somerset Council.
 - The application Ref 19/P/1343/CQA, dated 31 May 2019, was refused by notice dated 24 July 2019.
 - The development proposed is the change of use from an agricultural barn (sui generis use) to a dwelling (use class C3), operational development consisting of replacement of existing corrugated asbestos roof with metal roof, new timber cladding and insertion of windows and doors.
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Decision

1. The appeal is allowed and prior 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 (as amended) (the Order) for the change of use from an agricultural barn (sui generis use) to a dwelling (use class C3), operational development consisting of replacement of existing corrugated asbestos roof with metal roof, new timber cladding and insertion of windows and doors at land at Glen Farm, Sandy Lane, Abbots Leigh, Bristol BS8 3SE in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2(1) of the Order through application Ref 19/P/1343/CQA, dated 31 May 2019. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with paragraph Q.2(3) of the Order and the following additional condition.
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan; Elevations proposed Drawing No. 2121 E07; Plan proposed Drawing No. 2121 05.E and Block plan proposed Drawing No. 2121 E20.

Application for costs

2. An application for costs was made by Brinkgreen Ltd against North Somerset Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application form includes as its description of development a reference to a covering letter. I have therefore taken the description of development from that used in the appeal form and decision notice.

Main Issue

4. The main issues are whether the proposal would be permitted development, with particular regard to whether the requirements of Class Q(b) and paragraph Q.1(g) of the Order would be met.

Reasons

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

5. 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.
6. The agricultural building in question is a concrete framed cow shed dating from the 1970's. Aside from the north east facing elevation, which is where the main opening is situated, the structure is enclosed with walls comprising mostly blockwork at the lower level with timber or cement sheeting above. In addition, there is a concrete floor slab and cement sheeting to the pitched roof together with some translucent panels.
7. The submitted structural report¹ concludes that the structural frame is in reasonable condition without any serious defects and that it would be possible to form habitable dwellings within the existing barn that would avoid overstressing the existing structural elements. However, there is some qualification, as amongst the actions listed for careful consideration within the report are, that the existing floor slab and foundations should be investigated and confirmed adequate for the proposed loads². Moreover, given the presence of mature trees in the vicinity, the foundation depths should be checked and reviewed through a trial pit and as such, further action in relation to the foundations is not ruled out³. Nevertheless, these appear to be standard disclaimers resulting from a visual inspection of the building rather than signifying a likelihood of underlying structural concerns, and I have not seen any substantive evidence to show otherwise. On balance, the structural report prepared by a qualified engineer shows that the building is suitable for conversion without structural interventions.
8. Whilst I accept that the structural report does not go into great detail regarding the proposed building operations, further details are confirmed by the appellant in a table relating to how much of the building would be retained⁴. The proposal would replace the corrugated cladding on the roof and upper portion of some of the walls. However, it would retain the concrete frame and floor, the blockwork

¹ Morgan Structural Limited dated 20 December 2018

² 4th bullet point, page 5 Structural survey dated 20 December 2018

³ 6th bullet point, page 5 Structural survey dated 20 December 2018

⁴ Appellant's Statement of Case paragraph 6.8

walls of approximately 2.2m in height⁵ on the lower portion of the walls and some of the timber cladding⁶. The existing opening in the front elevation would be infilled and new windows or doors would be inserted into three elevations. Notwithstanding the Council's references to the rebuilding of a side wall in a different position⁷, there is now no dispute between the parties that this does not form part of the proposal. Furthermore, there is little evidence to substantiate the Council's assertion that the proposals involve the construction of a new wall to the side of the building.

9. Planning Practice Guidance (PPG)⁸ 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 law⁹ to which I have had regard.
10. 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.
11. From the information in the structural report, plans and appellant's appeal statement, the cumulative extent of the works proposed to facilitate a residential use would be considerable, but given the retention of original fabric in this case, not to such a degree that it would amount to a fresh build of the structure. Accordingly, it might reasonably be described as a conversion covering those works reasonably necessary for the building to function as a dwellinghouse. Moreover, the building operations would be to an extent necessary to make the building weatherproof and suitable for human habitation.
12. The detailed circumstances in relation to the proposal before me differ from those of the building considered in the Hibbitt case, in that the building in that case was largely open sided and involved the construction of four exterior walls. In contrast the proposal before me would retain a significantly greater degree of original building fabric. In any event, I am required to reach my own judgement based on the proposal, my own observations and the evidence before me.
13. It follows that on the evidence provided, the proposal would fall within the requirements of Class Q(b) of the Order such that the building would benefit from the permitted development rights under Schedule 2, Part 3, Class Q(b) of the Order subject to the conditions set out in paragraph Q2 of the Order.

⁵ Section 5, page 4 Structural survey dated 20 December 2018

⁶ Paragraph 6.8 Appellants' appeal statement

⁷ Page 3, paragraph 2 of Delegated Report

⁸ Paragraph 105 Reference ID: 13-105-20180615 revision date 15.06.2018

⁹ Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

Whether the requirements of paragraph Q.1(g) would be met.

14. Paragraph Q.1(g) of the Order does not permit development that would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. Accordingly, this would apply to the application of external cladding.
15. The proposed elevational drawing¹⁰ shows vertical timber cladding on parts of the north, west and east elevations continuing to ground level over areas where concrete block walling is shown on the existing elevations¹¹. The appellants confirm that this would have a thickness of up to 25mm¹² which would protrude less than the existing corrugated sheeting. On that basis the Council now accept that the proposal would not result in the dimensions of the building exceeding the existing dimensions¹³, and I have nothing before me that would lead me to disagree. Accordingly, the appeal proposal would comply with the limitation under paragraph Q.1(g) of the Order.
16. The Council does not suggest that the proposal fails to comply with any of the other restrictions and limitations specified in paragraph Q.1 of the Order, and I have no reason to take a different view.

Conditions

17. Paragraph Q.2(3) of the Order requires the development to be completed within a period of 3 years from the date that prior approval is given and in order to highlight this, I have referred to it in my decision. In addition, to ensure certainty, I have imposed a condition setting out the approved plans.

Conclusion

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

Helen O'Connor

Inspector

¹⁰ Drawing Number 2121 E 07

¹¹ Drawing Number 2121 D 04

¹² Paragraph 1.11 Appellants' appeal statement

¹³ Paragraph 2.2 Council's appeal statement