



Appeal Decision

Site visit made on 15 January 2020

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2020

Appeal Ref: APP/D0121/W/19/3240553

Cowshed at Glen Farm, Sandy Lane, Abbots Leigh 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/1696/CQA, dated 9 July 2019, was refused by notice dated 27 August 2019.
 - The development proposed is prior approval for the change of use of an agricultural building (Sui Generis Use) to 1no. dwelling house (Use class C3) with operational development consisting of the insertion of windows and doors.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development from the appeal form rather than the original application form. This is because it is a more precise description. In taking this action, I am satisfied that the interests of the parties have not been compromised.

Background and Main Issue

3. Since the appeal was lodged, another appeal on the broader site for a similar form of development has been allowed¹. In response, the Council has confirmed that the information submitted in relation to that appeal would be sufficient to demonstrate that the building that is the subject of this appeal could potentially be converted under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
4. Based on the evidence before me, I have no reason to disagree with the conclusions provided by the Inspector and now, more recently, by the Council. Consequently, the main issue in the assessment of this appeal is the effect of the proposal on biodiversity.

Reasons

5. It is common ground between the parties that the appeal site is being used as a day roost by a number of different species of bat, including greater

¹ APP/D0121/W/19/3234531

horseshoe, lesser horseshoe, common pipistrelle and soprano pipistrelle. These are European protected species and consequently, the requirements of The Conservation and Habitats Regulations 2017 (the Regulations) are engaged. Due to the presence of bats, the proposal seeks to provide a new bat loft within an adjacent timber poultry shed which is within the ownership of the appellant. However, the relevant building is beyond the red line of the appeal site.

6. Class Q of the GPDO is quite specific in the permitted development rights that it provides. It allows for the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. In addition, it allows for building operations reasonably necessary to convert the relevant building. However, it does not allow for additional works to other buildings to mitigate the impact of development.
7. The appellant considers that there is no requirement to consider ecological issues within Class Q. However, Regulation 9(1) of the Regulations states that I, as the competent authority, must exercise the functions which are relevant to nature conservation, so as to secure compliance with the requirements of the Habitats Directive. To ensure compliance with the Regulations, the proposed mitigation would require a licence from Natural England. Whilst such a licence may be granted, as identified above, the necessary work would be beyond the red line of the appeal site and consequently, beyond the remit of Class Q. Accordingly, the suggested mitigation could not be satisfactorily or reasonably secured through the prior approval process.
8. As a consequence, in the absence of suitable mitigation, I cannot be certain that the proposal would adequately comply with the requirements of the Regulations. Accordingly, I conclude that the proposal would have a harmful effect on biodiversity. Therefore, despite the findings in relation to the structural capabilities of the building, the proposal would not be permitted development.

Conclusion

9. For the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR