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## Appeal Decision

Site visit made on 25 February 2020

**by Helen O'Connor LLB MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 February 2020**

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**Appeal Ref: APP/Q3305/W/19/3240203**

**Agricultural Barn, Highcroft Lane, Binegar, Radstock BA3 4TP**

- 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 Mr T Gregory against the decision of Mendip District Council.
  - The application Ref 2019/1888/PAA, dated 2 August 2019, was refused by notice dated 3 October 2019.
  - The development proposed is the conversion of existing barn to a two bed single storey dwelling.
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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 conversion of existing barn to a two bed single storey dwelling at the Agricultural barn, Highcroft Lane, Binegar, Radstock BA3 4TP in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2(1) of the Order through application Ref 2019/1888/PAA, dated 2 August 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; Existing plans and elevations drawing 17234-2A; Proposed plans and elevations drawing 17234-3A; Section A-A & Notes Drawing 2019501 and Curtilage plan drawing 17234-4.

### Main Issue

2. The main issue is whether the proposal would be permitted development, with particular regard to whether the requirements of Schedule 2, Part 3, Class Q(b) of the Order would be met.

### Reasons

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

3. 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.
4. The agricultural building in question is a single storey timber framed building that stands on a concrete slab. The walls of the building are clad in timber boarding with a felt covering to the roof. Openings are limited and are confined to a set of timber double doors. I observed the building to be in a reasonably good state of repair which is reinforced by the findings of the submitted structural engineer's report<sup>1</sup>.
  5. The development proposes to retain the timber frame and 150mm reinforced concrete slab. It further indicates that the existing timber cladding walls would be retained and stained black<sup>2</sup>. However, there would be new windows and doors, considerable internal insulation and boarding to the walls, floor and roof as well as new lightweight 'Envirotile Plastic' roof tiling.
  6. The structural report further concludes that the structural integrity of the timber framework and concrete ground slab/foundations are considered adequate for conversion into domestic accommodation. This is substantiated with structural calculations which consider the existing building fabric but also the proposed refurbishment of the building. This expressly states that underpinning of the existing ground slab at portal frame posts will not be required<sup>3</sup>. It goes on to state that the internal partitions and internal board lining will improve the integrity of the building and that the lightweight roof tiling and proposed windows and doors will not affect the structural integrity of the building.
  7. Additionally, a letter from Total Building Control Ltd dated 29 July 2019 and referring to the submitted drawing numbers and structural report indicates that the proposal would, in their view, comply with 2010 Building Regulations. On this basis, the evidence indicates that the building would be structurally capable of functioning as a dwelling and I have seen little substantive evidence to show otherwise.
  8. Planning Practice Guidance (PPG)<sup>4</sup> 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 law<sup>5</sup> to which I have had regard.
  9. 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

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<sup>1</sup> Prepared by Vale Design Partnership Ltd dated 2 July 2019, paragraph 5.1

<sup>2</sup> 'External Walls' notes, Section A-A & Notes Drawing: 20195v01

<sup>3</sup> Page 18

<sup>4</sup> Paragraph 105 Reference ID: 13-105-20180615 revision date 15.06.2018

<sup>5</sup> Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council [2016] EWHC 2853 (Admin)



matter of planning judgement and the nature and extent of the proposed building operations are a relevant consideration in making that assessment.

10. I am aware that there have been four previous prior notifications<sup>6</sup> under Class Q in relation to the appeal building, three of which have been dismissed at appeal. Given that the most pertinent PPG guidance<sup>7</sup> was revised on 15 June 2018, subsequent to two of the appeal decisions and that the proposal before me is similar in scope to that considered by the Inspector in the most recent appeal decision<sup>8</sup>, I consider that the latest appeal decision is of most relevance and attracts considerable weight in my determination.
11. The Inspector refers to PPG guidance that states that internal works are not generally development and that it may be appropriate to undertake internal structural works. It follows that the insertion of internal insulation and partitions are not prohibited under Class Q. Moreover, although the Council refers to earlier appeal decisions raising concerns that windows and doors may not be supported by the structure, those Inspectors referred to earlier versions of PPG guidance and did not have the structural report dated 2 July 2019 before them which indicates otherwise. Additionally, the submitted section drawing<sup>9</sup> illustrates this.
12. The principal concern of the Inspector in the most recent appeal decision was the lack of clarity as to whether the building's existing foundations would be sufficient to take the additional load. As such, he was unable to rule out whether underpinning would be necessary, which would not fall within the scope of the permitted development in Class Q of the Order. This is addressed in the structural engineer's report before me, which states<sup>10</sup> that although no excavations to expose buried sub-structural elements were undertaken at the time of the initial survey, subsequently, the outside edge of the ground-slab was exposed for a length of 1.3m along both axes at a corner of the building. This revealed that the ground slab comprises 150mm thick reinforced concrete and this has informed the structural calculations. I observed the exposed ground slab at my site visit. Moreover, the previous Inspector referred to concerns expressed by the Council's Building Control team. I have not seen any such concerns in relation to the scheme before me.
13. Therefore, based on the information presented, although the cumulative extent of the works proposed to facilitate a residential use would be considerable, it has been shown that it would not be to a degree that would amount to a fresh build of the structure nor involve building operations that fall outside of those described in Class Q.1(i) of the Order.
14. Accordingly, the proposal 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. 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

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<sup>6</sup> Referenced 2017/0943/PAA; 2017/1810/PAA; 2018/2245/PAA & 2019/0161/PAA

<sup>7</sup> Paragraph 105 Reference ID: 13-105-20180615 revision date 15.06.2018

<sup>8</sup> Reference APP/Q3305/W/19/3219758

<sup>9</sup> Section A-A & Notes, Drawing 2019501

<sup>10</sup> Paragraph 2.2



Q(b) of the Order subject to the conditions set out in paragraph Q2 of the Order.

15. The Council does not suggest that the proposal fails to comply with the other restrictions and limitations specified in paragraph Q.1 of the Order, and I have no reason to take a different view.

*Other matters*

16. In the appeal questionnaire<sup>11</sup> the Council have indicated that the appeal site is in or adjacent to, or likely to affect an SSSI or an internationally designated site. Furthermore, the delegated report states that the site is within a Special Area of Conservation (SAC) and the Council have subsequently confirmed this refers to the Mells Valley SAC, an important habitat for greater horseshoe bats. SAC's are habitats recognised as European sites under the Conservation of Habitats and Species Regulations 2017 (the Regulations) and all species of bat in the UK are protected species.
17. Article 3(1) of the Order grants planning permission for the classes of development specified in Schedule 2 subject to Regulations 75-78 of the Regulations. Regulation 75 provides that it is a condition of any planning permission granted by a general development order made on or after 30 November 2017 that development which (a) is likely to have a significant effect on a European site or a European offshore marine site, alone or in combination with other plans or projects, and (b) is not directly connected with or necessary to the management of the site, must not be begun until the developer has received written notification of the approval of the local planning authority under Regulation 77.
18. However, the Council have stated<sup>12</sup> that in their view the development would not, either alone or in combination with other plans or projects have a significant effect on the internationally important features of the SAC. I have little basis to dispute this. Furthermore, the process outlined above is administered under separate specific legislation and is therefore, distinct from the scope of the appeal decision before me. Accordingly, there is no need for me to consider this matter further as part of my decision.

**Conditions**

19. 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**

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

*Helen O'Connor*

Inspector

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<sup>11</sup> Question 19a

<sup>12</sup> Email dated 29 January 2020