
Appeal Decision

Site visit made on 10 November 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2020

Appeal Ref: APP/Q3305/W/20/3252501

Higher Farm, Bodden Lane, Bodden, Shepton Mallet, Somerset BA4 4PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr William Davis of J and W Davis Ltd against the decision of Mendip District Council.
 - The application Ref 2019/2542/PAA, dated 17 October 2019, was refused by notice dated 17 December 2019.
 - The development proposed is for the change of use of the agricultural barn to form a detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development referred to in the banner heading above has been, in part, taken from the application form. In the revised description above I have removed elements of the development description that are superfluous and overly descriptive.
3. The appeal scheme is a change of use of an agricultural building to a dwelling house (Class Use C3). Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of Q(a) a 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 (dwelling houses) of the Schedule of the Use Classes Order¹, and Q(b) building operations reasonably necessary to convert the building.

Main Issue

4. The main issue in this case is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015, having particular regard to whether the extent of the works proposed would consist of building operations that are reasonably necessary for the building to function as a dwelling house.

Reasons

5. The GDPO states at paragraph Q.1.(i) that development under Class Q(b) is not permitted if it would consist of building operations other than: (i) the

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

- installation or replacement of — (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling house; and (ii) partial demolition to the extent reasonably necessary to carry out the building operations allowed by Paragraph Q.1(i)(i).
6. The Planning Practice Guidance² (PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted. However, the PPG clarifies that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. It is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right.
 7. Work to convert the appeal building to a residential dwelling includes the replacement of existing roof coverings, rendered external walls, a new insulated ceiling, supported on a new insulated stud wall, as well as new window and door openings. An internal floor would also be installed and is referred to in more detail below.
 8. The appellant's Report on Visual Structural Inspection (RVSI) indicates that the barn appears to be in suitable structural condition to allow conversion into a habitable dwelling and that the existing primary structure is considered adequate to support the loads from external works such as replacement cladding sheets of similar weight. However, it also states that the floor of the barn 'will require insulation, a damp-proof membrane and new floor slab to be installed. This is likely to result in a reduced formation level which may undermine the existing walls. As such, the floor construction build-up and finished floor level should be carefully considered, or allowance should be made for sequential mass concrete underpinning of the existing walls'.
 9. The author of the RVSI has subsequently confirmed that the sequential mass concrete underpinning of the existing walls would only be required if the replacement slab construction formation level ends up being lower than that of the existing wall foundation formation. Moreover, it is stated that the reason for underpinning would only be for temporary stability, if the existing foundations are at risk of being undermined by the excavation. Underpinning would not be required as part of temporary/enabling works if the finished floor level is set high enough so that the slab construction formation level is higher than the existing foundation formation level.
 10. While the RVSI implies that mass underpinning works may not be required, the appellant's surveyor's additional comments do not discount with any certainty the possibility that these works may, in any event, be necessary. If the underpinning of the external walls is required, there is no information submitted with the appeal on the nature and extent of these works. For instance, the depth of any further excavations, concrete volumes required or where in relation to the appeal building the underpinning works would be carried out.

² Planning Practice Guidance, Paragraph: 105 Reference ID: 13-105-20180615

11. If the underpinning works required are for temporary stability, as the appellant's surveyor suggests, it is not clear from the submitted evidence how long they would be in place for and how would they be removed once they have served their purpose.
12. Therefore, the evidence, to substantiate that underpinning of the building would not be required, is limited and lacking sufficient detail for me to be certain that it would not constitute works that go beyond the scope of permitted development.
13. Furthermore, the excavation and installation of new foundations, and underpinning works, are not building operations that fall within Paragraph Q.1.(i)(aa) and (bb) of Class Q that are reasonably necessary for a building to function as a dwelling house. Such building operations, in this instance could be significant and include works underneath exterior walls and therefore outwith the interior of the building, and go beyond 'maintenance, improvement or other alteration' which would be exempted from the meaning of 'development' under s55(2)(a) of the Act³.
14. I conclude that on the basis of the evidence before me it has not been sufficiently demonstrated that the extent of the works proposed would be reasonably necessary to convert the building to a dwelling house under Class Q, and the proposed development is not therefore permitted by the GDPO.
15. Notwithstanding, my conclusions on the proposed underpinning works, the extent of new walls, windows and doors as well as the internal works within the building, in part comply with Paragraph Q(i) (aa) and (bb) of Class Q, and as a whole are considered to be reasonably necessary for the building to function as a dwelling house.

Other Matters

16. A number of appeal decisions have been referred to by the appellant. While I note that some of the findings within those Decision Letters support my position in respect of the proposed work to the walls and roof of the appeal building, none of the appeals specifically refer to the issue of a new floor slab and the possible need for underpinning of existing walls. In any event I have reached my own conclusions on the appeal proposal on the basis of the evidence before me.

Conclusion

17. For the reasons given, the appeal should be dismissed.

R. E. Jones

INSPECTOR

³ The Town and Country Planning Act 1990