



Appeal Decision

Site visit made on 24 November 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th December 2020

Appeal Ref: APP/F0114/W/20/3251845

Barn and Yard at Wellow Farm, Norton Lane, Norton

- 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 B Wilkins against the decision of Bath & North East Somerset Council.
 - The application Ref 20/00478/ADCOU, dated 5 February 2020, was refused by notice dated 27 March 2020.
 - The development proposed is change of use from an agricultural building to 1 no. dwelling (C3) and for associated operational development.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development has been taken from the appeal forms and the decision notice, which more accurately describe the proposal relative to the application forms. The appeal has been dealt with accordingly.

Main Issue

3. The main issue is whether the building operations are reasonably necessary and would amount to rebuilding rather than conversion.

Reasons

4. The site is located on Wellow Farm and comprises a building constructed as a barn for the purposes of storage related to agriculture. It is a single storey building, elongated in nature and open at the frontage, whilst mostly enclosed on all other sides. Generally speaking, the lower half of the internal structure is blockwork, whilst the upper half is a mix of lightweight sheeting material with metal portal frame visible at the frontage and supporting the roof.
5. Part 3, Class Q, Paragraph Q. (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) sets that out development is permitted where it consists building operations reasonably necessary to convert a building from agricultural use to a use as a dwellinghouse. Part 3, Class Q, Paragraph Q.1 (i) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) sets out that development is not permitted where it consists building operations other than what is reasonably necessary for the building to function.

6. Planning Practice Guidance¹ makes clear 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. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
7. Notwithstanding the appellant's definition of reconstruction, the relevant judgement² sets out the principle that a building must be capable of conversion to residential use without operations that would amount to complete or substantial re-building of the pre-existing structure. As development is only permitted under Class Q 'to convert the building' this in my view requires the building to be sufficiently substantial to be capable of accommodating the works proposed without being rebuilt.
8. The appellant questions the relevancy of the judgement, but the proposals share similarities insofar as they are not fully enclosed structures. In any event, the judgement puts forward a set of principles which are relevant somewhat independent of the respective details of the case, insofar as it is an assessment based on the facts of the case and whether the building is likely to comprise or require substantial rebuilding, whether due to its existing form of construction and load bearing properties, or otherwise.
9. Notwithstanding the 21% figure derived by the appellant, the proposal would involve some element of building operations to almost every aspect of the existing agricultural building. Even if the roof does not require replacement, substantial works to at least three of the five external planes of the building (four elevations and a roof) demonstrates that more than 50% of the existing structure requires some form of substantial building operation. In addition, a completely new frontage is required in order to weather seal the building. Consequently, it appears that generally speaking more of the building needs to be subject to building operations than not.
10. The structural report and update note both appear to demonstrate that the structure of the building is sufficient for supporting the existing configuration, but I am not clear whether it would be sufficient for supporting the additional building operations and structural elements proposed therein, such as the new frontage.
11. The conclusions appear to be based on assumptions about how the final proposal will interface with load bearing structure and not actual detailed assessment of the specific proposal. Notwithstanding this uncertainty, even if it could be proven that the building was structurally sufficient to support additional building operations and structural elements proposed, it would not change my conclusion about the amount of rebuilding required.
12. Generally speaking, the referenced appeal decisions seem to demonstrate that other proposals go beyond the limits of permitted development, but do not demonstrate that the proposal in this case is necessarily within the limits of permitted development.

¹ Paragraph: 105 Reference ID: 13-105-20180615

² Hibbitt v SSCLG [2016] EWHC 2853

13. With regards the proposal at Ivy Cottage³ notwithstanding the information submitted, the Council in that case determined that works did not amount to rebuilding. The evidence submitted in this particular case does not lead me to the same conclusion and following the principle that each case should be determined on its own merits it would not be appropriate to reassess the proposal at Ivy Cottage in this context. A similar rationale applies with regards the proposals at Julian Farm⁴ and Dunbolton Farm⁵.
14. To be clear, works may be reasonably necessary for the building to function as a dwellinghouse, but cumulatively these works should not amount to rebuilding rather than conversion if the permitted development right is to apply. Pursuant to this point, there is no evidence to suggest that the works are not reasonably necessary for the building to function as a dwelling house in and of itself.
15. Overall, it is not unreasonable to conclude that where more than 50% of the existing building is not suitable for conversion and requires extensive building operations, in conjunction with entirely new built elements, the proposal would amount to rebuilding. Accordingly, although the proposal would comprise building operations reasonably necessary for the building to function as a dwellinghouse, it would not comprise a conversion and would not comply with Part 3, Class Q, Paragraph Q. (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, the proposal would not benefit from permitted development rights under the provisions of the order.

Conclusion

16. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR

³ 20/00790/ADCOU

⁴ 20/00792/ADCOU

⁵ 20/00789/ADCOU