
Appeal Decision

Site visit made on 23 November 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2021

Appeal Ref: APP/Q3305/W/20/3258069

Barn to North West of May Cottage, East Woodlands Road, Frome, Somerset BA11 5LY

- 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 Simon Keates and Mrs Hayley Blackie against the decision of Mendip District Council.
 - The application Ref 2020/1088/PAA, dated 3 June 2020, was refused by notice dated 24 July 2020.
 - The development proposed is the conversion of Dutch Barn and rendered block work lean-to into two residential units.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of Dutch Barn and rendered block work lean-to into two residential units, at the site North West of May Cottage, East Woodlands Road, Frome, Somerset BA11 5LY, in accordance with the terms of the application Ref 2020/1088/PAA, dated 3 June 2020, and the details submitted with it (including plan Refs: 1328/001, 002, 030, 031, 040, 200225, A01/010, A01/020, A01/021, A01/041, A01/050 and A01/051.)

Main Issue

2. The main issue 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 (as amended) ('GPDO'), with particular regard to whether the extent of the proposed works to the building go beyond those permitted under Class Q.

Reasons

3. Class Q of the GPDO allows for a change of use of a building and any land within its curtilage from an agricultural use to a use falling within Class C3 (dwellinghouses) and building operations reasonably necessary to convert the building. However, Class Q does not allow for the extensive rebuilding of an insubstantial structure to create what would in effect be a new building.

4. Paragraph Q.1(i) states that development is not permitted by Class Q 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. Paragraph Q.1(i) also confirms that partial demolition is permitted to the extent reasonably necessary to carry out the building operations allowed by the same paragraph.
5. Planning Practice Guidance provides further clarification in this regard. It states 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 therefore 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.
6. The existing Dutch barn and lean to are in reasonable condition, based on my observations and also the evidence in the submitted Structural Report. There is some rust evident on the steel pillars and also some cladding sheets missing, for example. The metal frame of the barn appears mainly in good condition. The lower block walls and where there is concrete flooring all appears also in good condition.
7. The proposal would essentially see a new internal secondary structural frame to support the ceiling and stud walls. This framework would be largely independent from the existing roof. Whilst these are new structural elements, they are essentially internal works and would not replace the existing barn structure. The Structural Survey report states that the existing primary structure is generally adequate to support the loads of the external works, as long as the cladding would be like-for-like in terms of weight. The appellant acknowledges this and has stated they are seeking to use a lightweight metal for the roof. As such, I see no reason to conclude that the existing structural frame of the barn and lean-to cannot continue to support the external cladding of the walls and roofs following the conversion.
8. The extent of works needed to convert the barn to two dwellings would be significant, but this is not unusual for this type of development. In this case, it is my judgement that the extent of the proposed works would not be so substantial as to constitute a rebuild rather than a conversion. I also would regard the works as reasonably necessary for the conversion. As this case has been raised by the parties, I confirm that in coming to this view, I have been mindful of the High Court Judgement in the case of *Hibbitt v SSCLG* (2016).
9. For the above reasons, I conclude that the extent of the proposed works to the building do not go beyond those permitted under Class Q. Furthermore, none of the matters set out at Paragraph Q.2(1)(a) to (g) in the context of this appeal indicate that prior approval should be withheld.

Other Matters

10. The Council Ecologist has raised the issue that the site is within Band C of the Bat Consultation Zone for the Mells Valley Special Area of Conservation but they are satisfied that the development would be highly unlikely to have an adverse effect on the bats. There is nothing before me to lead me to conclude differently.

11. The Ecologist has also raised the issue of possible bird strike against the large glazed areas as proposed with the conversion. However, the Council do not regard a condition being necessary although did want this raised with the appellant, with the advice being to use non-reflective glass.
12. The Council has confirmed that there is no historic evidence to suggest that the uses on site would require a full soil investigation due to contamination. However, the Council would advise that if unforeseen contamination is found during the construction phase then the Environmental Health team should be contacted immediately.

Conditions

13. 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 GDPO.
14. Paragraph W(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. I have included the list of plans within the decision paragraph (paragraph No 1). I do not regard there to be the need for any additional conditions to be imposed.

Conclusion

15. For the reasons given above and in considering all matters raised I conclude that the appeal should be allowed and prior approval granted.

Steven Rennie

INSPECTOR