
Appeal Decision

Site visit made on 19 January 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2021

Appeal Ref: APP/F0114/W/20/3261017

Land adjacent to Providence Bungalow, Frome Road, Writhlington, Radstock BA3 3LD

- 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 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Timothy Gregory against the decision of Bath & North East Somerset Council.
 - The application Ref 20/02767/AGRN, dated 1 August 2020, was refused by notice dated 20 August 2020.
 - The development proposed is the erection of a steel framed barn.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Class A of Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter referred to as the Order) permits, amongst other things, the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area, works for the erection of a building which is reasonably necessary for the purposes of agriculture within that unit. In order to benefit from the provisions of Schedule 2, Part 6, Class A of the Order the proposed development must fall within the class of development described.
3. In this case the Council states that there is no proof of the overall size of the appellant's agricultural holding. On that basis they question whether the proposed building would be reasonably necessary for the purposes of agriculture within that unit and therefore, whether it falls within the class of development described.
4. However, caselaw¹ has held that local planning authorities, and therefore by extension Inspectors, do not have power under the prior approval procedures contained within Part 6 of the Order to determine whether or not the proposed development comes within the description of the relevant class, or would comply with the limitations or restrictions applicable to development permitted in the Order.

¹ *R (on the application of Marshall) v East Dorset District Council and Pitman* [2018] EWHC 226 (Admin)

5. Furthermore, the case indicated that the appropriate time to consider such issues is in response to an application for a certificate of lawfulness, an application for planning permission or potentially in the context of enforcement proceedings. This is consistent with Planning Practice Guidance (PPG) which indicates that if it is not clear whether works are covered by permitted development rights, it is possible to apply for a lawful development certificate².
6. Accordingly, notwithstanding that refusal reason 1 on the decision notice refers to this, I cannot purport to decide whether the proposal would fall within the description for Class A of Part 6 of the Order, as this is a matter that is outside the remit of discretion open to me. Therefore, my determination is confined to the consideration of the siting, design and external appearance of the building in accordance with condition A.2(2)(i) of Part 6 of the Order. It follows that, given the limited scope of the decision, the outcome should not be interpreted as a determination as to whether the development comes within the description of the relevant class of the Order.
7. Moreover, notwithstanding the wording of refusal reason 1, looking at the decision notice as a whole, it is reasonable to read it as a refusal of prior approval for the matters of siting, design and external appearance of the building. I have determined the appeal accordingly.

Main Issue

8. Having regard to the above, the main issue is the impact of the building on the surrounding area having regard to its siting, design and external appearance.

Reasons

Siting, design and external appearance

9. The appeal site lies within the Radstock Conservation Area (CA). Its significance lies primarily in the way the influence of coal mining and the associated arrangement of buildings, geology and landscape reflect the evolution of the town over time.
10. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. This applies to functions carried out under the planning Acts. As the Order constitutes secondary legislation to the Town and Country Planning Act 1990, I am satisfied that my determination relates to a function to which the statutory duty applies, and I have not seen evidence to show otherwise. Accordingly, I shall consider the effect of the siting, design and external appearance of the proposal on the significance of the CA as part of my assessment.
11. The appeal site comprises part of a field within a wider valley that extends close to the core of Radstock. The land has an open, natural appearance which is generally free from built form. This together with the valley topography forms part of the distinctive close relationship between the countryside and built environment of the town. Extracts from historic OS maps³ show the proximity of the appeal site to a former track bed and footpaths to a nearby colliery. Clear views of the site are possible from the nearby public footpath, as

² Paragraph 024 Reference ID: 13-024-20140306

³ Consultation response dated 17.8.20

well as in glimpses from other vantage points and buildings around the valley. Consequently, the appeal site makes a positive contribution to the significance of the CA at a prominent location.

12. The application form indicates that the building would measure 25m in length, 10m in breadth and 9m to the ridge. The materials would be a mixture of steel and timber walls and green steel roof. Accordingly, although the form of the building is not provided, these dimensions indicate that its scale would be sizeable and given the materials and proposed use, it would be likely to have a functional appearance.
13. The building would be positioned a considerable distance from the boundaries of the field and therefore, some way from other existing buildings as well as both accesses referred to at Mill Road and Maple Rise. Therefore, the proposal would introduce significant additional built form at an exposed location which would appear adrift from the nearby built environment.
14. There is nothing before me to indicate how the building would respond to the slight gradient of the site. Neither is there any indication that any planting, or screening would be provided as part of the development to soften its impact. Therefore, based on the evidence before me, the resulting development would be likely to have a stark appearance insensitive to the immediate natural surroundings.
15. Taking these factors together, the proposal would undermine the contribution of the open, sloping, verdant landscape to the significance of the CA. The harm would be exacerbated as it would be immediately apparent in views from the nearby footpath.
16. In addition, as the building would be used to store farm machinery⁴, it is reasonable to suppose it would be in regular use. Given the distance from the access points mentioned and absence of access tracks, the siting of the building does not appear to be particularly practical for obtaining vehicular access as part of a wider agricultural unit. I am concerned that this would lead to unsightly vehicle tracks across considerable lengths of the land.
17. Accordingly, I find that the siting, design and external appearance of the building would result in unacceptable harm to the character and appearance of the area, including the significance of the CA and therefore, prior approval should not be given in respect of these matters.

Other matters

18. The appellant refers to unnecessary consultation undertaken by the Council during the application. Whilst not mandated, it is not shown that the Order prohibits additional publicity. Furthermore, based on the evidence submitted, there would be nothing to procedurally stop the Council from seeking expert advice insofar as it was relevant to the matters of siting, design and external appearance before them.
19. My attention is drawn to a decision made by Mendip District Council⁵ which concerned the erection of a barn of a broadly similar size under Part 6, Schedule 2 of the Order. In that case the Council considered that prior approval

⁴ Section 5 of application form

⁵ Reference 2020/0496/AGB, Appendix 5, Appellant's Appeal Statement

of the siting, design and external appearance was not required. However, this related to an entirely different location a considerable distance from the appeal site and outside of the CA. Given the unique nature of land, it follows that it has little relevance when assessing the individual merits of the impact arising from the siting, design and external appearance of the building in the scheme before me. As such, it would not lead me to a different view.

Conclusion

20. As outlined above, this decision is not a determination as to whether the development comes within the description of Class A, Part 6 of the Order. However, in relation to the limited scope of the decision before me, for the reasons given above I conclude that the siting, design and external appearance of the building would be harmful and therefore, the appeal should not succeed.

Helen O'Connor

Inspector