



Appeal Decision

Site visit made on 25 January 2021

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2021

Appeal Ref: APP/F0114/W/20/3260116

4, Pillsbridge Cottages, Old Mills, Paulton, Somerset, BS39 7SR.

- 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 A Smith against the decision of Bath & North East Somerset Council (the LPA).
 - The application Ref. 20/01588/ADCOU, dated 1 May 2020, was refused by notice dated 8 July 2020.
 - The development proposed is a change of use to 1 dwelling (C3) and associated development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Approval was sought under the provisions of Schedule 2, Part 3, Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order) for the change of use together with building operations reasonably necessary to convert the building to a dwelling [Class C3 of the Town and Country Planning (Use Classes Order) 1987 (as amended)].
3. The LPA's decision notice includes reference to various development plan policies. However, in applications for prior approval, the provisions of section 38(6) of the Planning and Compulsory Purchase Act 2004 are not engaged. The principle of the development has already been established by the Order.

Main Issue

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

Reasons

5. The appeal building comprises an open-fronted concrete block structure with steel supports and a metal sheeted roof. It has a concrete floor and lies to the rear of 1, 2 and 4 Pillsbridge Cottages with access from the A362. This mono-pitched roof building is approximately 12.5 metres x 7.5m x 2.8m (high). In size and appearance, it is akin to a large domestic style garage/work shed.
6. Development is not permitted under Class Q if, amongst other things, a site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or in the case of a building which was in use before

that date but was not in use on that date, when it was last in use, or in the case of a site which was brought into use after 20 March 2013, for a period of at least 10 years before the date under Class Q begins.

7. The application form describes the building as a hay barn and it states that on 20 March 2013, or the last use before that date, it was used solely for an agricultural use as part of an established agricultural unit. The application form also states that the use has been continuous since the date started and that use will continue until the proposed development commences. I also note from the form that the building has been used to store fodder and is open for tractor trailer access. A statement submitted in support of the application states that the building was "*constructed probably some 50 years ago*" and is used in association with sheep and cows grazing on land to the south.
8. During my visit, a few bales of hay were being stored in a small part of the building. A local resident has written to state that the building is not and never has been agricultural and was instead erected for and used as a garage, including a Ford Transit pick-up truck and a family car. In response to the LPA's concerns that there is insufficient information to understand whether the building has ever been in agricultural use, the appellant has submitted a Statutory Declaration by one of the sons of the former owner¹ of the building.
9. I note from the Statutory Declaration that JCW owned the land on which the appeal building sits from 1969 until 2019. I also note that in the mid 1970's JCW erected an "*all purpose building*" that "*has been used to store hay and fodder for animals kept on the Adjoining Land.*" Photographs² submitted in support of the appeal show some livestock grazing on some of the land to the south of the appeal building.
10. Agricultural buildings can take many different forms and sizes and are often sited in close proximity to dwellings. I do not doubt the sincerity of the Statutory Declaration and, in all likelihood, part of the appeal building has been used, and appears to be continuing to be used, for agricultural purposes. However, on the basis of the information before me, it has not been established that this building was used solely for agricultural use on 20 March 2013, or when last used prior to that date.
11. An all-purpose building is not the same as a general purpose agricultural building. The former suggests a variety of uses, including some non-agricultural uses. Given the size, appearance and close proximity of this all-purpose appeal building to 4 Pillsbridge Cottages, as well as the observations of a local resident, on the balance of probabilities, it is very far from certain that this building meets the requirements of part Q.1 of the Order.
12. The LPA is also concerned that the proposed development would amount to more than a conversion and would be akin to a re-build. Paragraph Q.1(i)(i) of the Order provides, amongst other things, that development would not be permitted if a proposal would consist of building operations other than the installation or replacement of windows, doors, roofs or exterior walls to the extent reasonably necessary for the building to function as a dwellinghouse.
13. The Order allows quite extensive building operations. However, it is not the intention of the permitted development right to allow rebuilding work which

¹ John Cecil Weston (JCW), who also owned and lived at 4 Pillsbridge Cottages.

² Undated, but taken before the LPA determined the application and described by the appellant's agent as recent.

would go beyond what is reasonably necessary for the conversion to residential use. The proposed development would include insulating the existing walls, roof and floor, as well as inserting new windows and door openings in the elevations. The appellant's agent has also informed me that the building is structurally sound. Whilst there is no requirement within the Order for applications to be accompanied by a structural survey/report, it is often helpful to provide one. There is no such report before me.

14. From what I saw during my visit, some of the roof timbers appear to be in a poor condition and likely to need replacing. There was also a sizeable crack in the wall in the south eastern corner of the building. This could be an indication of a significant structural defect. On the basis of the information before me, it is unclear if major or substantial rebuilding works would be required. In this regard, I am mindful of the *Hibbitt* judgement³. It is very far from certain that the nature of the proposed building operations would amount to those which are reasonably necessary for the building to function as a dwellinghouse.
15. I also note the LPA's argument that insufficient information has been submitted regarding the proposed drainage arrangements and the likely ecological impact of the works. However, I note that the site lies within Flood Zone 1 (low risk of flooding) and there does not appear to be any evidence of historic surface water flooding or drainage issues. The proposal would also involve raising the floor level by 150mm. A condition could be attached to an approval to ensure adequate drainage. Whilst I note the comments of the LPA's ecologist, given the form of the existing building, the lack of optimal crevices for roosting bats and the absence of any evidence of bat or bird activity inside the building the proposal would be unlikely to have any significant impact on birds or bats. A condition could be attached to an approval requiring the provision of bird and bat boxes to provide a likely net biodiversity gain.
16. The LPA has also argued that the vehicular access to the site would be along a public right of way. However, it appears that there may be some doubt as to whether or not this access lane is a public right of way. Even if it is, the long-standing use(s) of the building involve some motorised traffic using this lane. The proposal would be very unlikely to generate any significant increase in use. There is no cogent evidence to demonstrate that the proposal would result in any harmful transport or highways impacts.
17. Given my findings above regarding the uncertainty over previous and existing use(s) of the building, as well as the extent of the likely building operations, the proposal does not comprise permitted development under Schedule 2, Part 3, Class Q(b) of the Order. The appeal should not therefore succeed.

Neil Pope

Inspector

³ *Hibbitt and Another v Secretary of State for Communities and Local Government* [2016] EWHC 2853 (Admin).