
Appeal Decision

Site visit made on 30 November 2020

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

an Inspector appointed by the Secretary of State

Decision date: 9 February 2021

Appeal Ref: APP/P1615/W/20/3256199

Barn at Meredith Lane, Tibberton, Gloucestershire - Grid Ref Easting: 376442 Grid Ref Northing: 221492

- 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 Paul Baker (Evans Jones Ltd) against the decision of Forest of Dean District Council.
 - The application Ref P0437/20/PQ3PA, dated 3 April 2020, was refused by notice dated 29 May 2020.
 - The development proposed is for the conversion of barn to create 1no. 'smaller' dwelling and 1no. 'larger' dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Paul Baker against Forest of Dean District Council. This application is the subject of a separate Decision.

Main Issues

3. 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

4. Firstly, Class Q sets maximum floorspace areas and numbers of units for 'smaller' and 'larger' dwellings. The proposal would include one smaller and one larger dwelling. The appellant has explained through their interpretation how their proposal meets with these limitations and I have no reason to disagree with their interpretation.
5. 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.

6. 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.
7. 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.
8. The barn is a large structure, with a steel frame clad in cement roof sheets and steel profile sheets to the elevations. Inside there are some sections of blockwork wall, but only to the lower sections of the elevations. There is also a concrete floor. The barn structure appears to be in a decent condition.
9. Whilst the condition of the barn is relatively good, to be converted to dwellings there would need to be significant works involved. The statement of case at paragraph 3.2 stated that the "roof covering and exterior cladding are to be retained to provide the building envelope". However, the Condition Report considers that the wall and roof cladding would be replaced. Essentially, with the cladding removed there would only be mainly the floor, the steel frame and some sections of blockwork wall remaining. The appellant states that 'the replacement of the roof and walls is required in order to ensure that the proposed dwellings meet current insulation and Building Regulation requirements'. Whilst there may be a Building Regulations requirement for such works, the consequence is that much of what is currently viewed as the barn would be replaced.
10. Furthermore, the revised Conditions Report lacks detail when considering such issues as whether the steel frame is sufficient to support the load if the barn is converted to residential, with the added insulation for example. Also, there does not appear to be any investigation of the foundations, only to state that there is no reason why it would not be fit for purpose.
11. Clearly the case involves matters of judgement. However, in the absence of any convincing evidence from the appellant, there is considerable doubt in my mind as to whether the existing building is capable of conversion to dwellings with only works that could be termed as reasonably necessary. I note the other appeal examples that have been brought to my attention, but they all differ in some respect from the case before me and I have assessed this proposal based on its own merits primarily.
12. In order to benefit from the permitted developments rights under Schedule 2, Part 3, Class Q of the GPDO, the proposal must only involve building operations reasonably necessary to convert the building in accordance with the definition at Class Q(b). Based on the evidence before me and my own observations of the barn, it has not been demonstrated that the required works would be limited to building operations reasonably necessary to convert the building so as to be permitted development under Class Q.

Protected Species

13. Whilst this is not a planning application, Regulation 9 of the Conservation of Habitats and Species Regulations 2017 imposes a duty on competent authorities to consider relevant Directives and whether there is a reasonable likelihood of European Protected Species being present and affected by development that is said to be Permitted Development, in a prior approval or other appeal. Therefore, although not mentioned in the Class Q section of the Permitted Development Order, protected species must be taken into consideration.
14. In this case a Preliminary Ecological Appraisal (PEA) has been submitted with this appeal. The PEA regards the main barn (B1) to not be suitable for supporting bats. However, the Council's ecologist has stated that the conversion to residential could affect any bat roosts in two of the adjacent outbuildings, particularly a potential to directly impact from light spill, onto 'building 3', which has a greater potential to support roosting bats. Even though these other outbuildings are not part of the development, any bats using these buildings could potentially be adversely affected by the proposed development due to the close proximity of these buildings to each other.
15. The PEA states that an artificial lighting plan for the site should be devised to ensure an avoidance of light spill on the adjacent outbuildings (referred to as B3 and B4), but this does not consider light from the windows in the elevations of the proposed development. I am not convinced the proposed mitigation measures would be sufficient, especially as there is a lack of detail as to the potential for bat roosts that could be affected by the development. It is for this reason I regard there being a reasonable likelihood that bats could be present in adjacent buildings and therefore activity surveys should be undertaken prior to determination, so an assessment can be made as to the probable impact and any suitable mitigation required.
16. As there has not been the necessary surveys undertaken I cannot be satisfied that the development would not have a material adverse impact to Protected Species (bats) distribution and population. Therefore, there is a lack of evidence before me to ensure the safeguarding of Protected Species which would not be in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017. The recommended site ecological enhancements are welcomed, but it is not known the extent of the impact to bat species and so I cannot be satisfied that such enhancements would sufficiently address the potential impact to this protected species.

Prior Approval

17. Whilst I note the other reasons for refusal stated by the Council such as the visual impact of the proposed conversion and the impact to future occupant living conditions, given my conclusion that the proposed change of use would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required as it would not alter the outcome of the appeal.

Conclusion

18. For the reasons given above and having considered all matters raised including the suggested conditions, the appeal should be dismissed.

Steven Rennie

INSPECTOR