



Appeal Decisions

Site Visit made on 23 March 2021

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2021

Appeal A: APP/D0121/W/20/3257716

**Barn 1, Rolestone Manor Farm, West Rolestone, Hewish, Somerset
BS24 6UR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Phillip Jones against the decision of North Somerset Council.
 - The application Ref 19/P/3076/CQA, dated 4 December 2019, was refused by notice dated 25 February 2020.
 - The development proposed is Change of Use of Agricultural Building to a Dwellinghouse (Class C3), and for Associated Operational Development Town and Country Planning (General Permitted Development) Order 2015 Schedule 2, Part 3, Class Q.
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Appeal B: APP/D0121/W/20/3257717

**Barn 2, Rolestone Manor Farm, West Rolestone, Hewish, Somerset
BS24 6UR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Phillip Jones against the decision of North Somerset Council.
 - The application Ref 19/P/3074/CQA, dated 4 December 2019, was refused by notice dated 25 February 2020.
 - The development proposed is Change of Use of Agricultural Building to a Dwellinghouse (Class C3), and for Associated Operational Development Town and Country Planning (General Permitted Development) Order 2015 Schedule 2, Part 3, Class Q.
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Decisions

Appeal A:

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of agricultural building to a Dwellinghouse (Class C3), and for associated operational development, at Barn 1, Rolestone Manor Farm, West Rolestone, Hewish, Somerset, BS24 6UR, in accordance with the application Ref 19/P/3076/CQA, dated 4 December 2019, and the details submitted with it, pursuant to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 paragraphs Q(a) and Q(b) subject to the conditions set out in the Schedule to this decision.

Appeal B:

2. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of agricultural building to a Dwellinghouse (Class C3), and for associated operational development, at Barn 2, Rolestone Manor Farm, West Rolestone, Hewish, Somerset, BS24 6UR, in accordance with the application Ref 19/P/3074/CQA, dated 4 December 2019, and the details submitted with it, pursuant to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 paragraphs Q(a) and Q(b) subject to the conditions set out in the Schedule to this decision.

Preliminary Matter

3. Appeal A and Appeal B relate to two separate buildings within the same wider site. The issues within the appeals are the same and as such I have dealt with them within the same Decision. I have, however, set out two separate Decisions and two Schedules of Conditions in the interests of clarity.

Background and Main Issues

4. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses), and (b) development referred to in (a) together with building operations reasonably necessary to convert the building.
5. Paragraph Q.1(a) of the GPDO states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on the 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.
6. Paragraph Q.2(1) of the GPDO requires prior approval of six matters. These are: (a) the transport and highways impacts of the development, (b) noise impacts of the development, (c) contamination risks on the site, (d) flooding risks on the site, (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order and (f) the design or external appearance of the building.
7. On the basis of the submitted evidence and the Council's reasons for refusal, the main issues in these appeals are:
 - whether the proposed development would be granted planning permission by Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO, with particular regard to whether the buildings meet the requirements of paragraph Q.1(a); and
 - whether the location or siting of the buildings make it otherwise impractical or undesirable for the buildings to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order in terms of whether or not the proposal would provide satisfactory living conditions for future occupiers with particular regard to noise and disturbance and health and safety.

Reasons

Class Q

8. Part 3 Paragraph X of the GPDO defines an 'agricultural building' as a building used for agriculture and which is so used for the purposes of a trade or business. An 'established agricultural unit' is defined in Paragraph X as agricultural land occupied as a unit for the purposes of agriculture.
9. The appeal buildings are disused single storey agricultural barns which sit opposite one another within a small offset area of the wider holding. There is no dispute between the parties that the buildings were in agricultural use on 20 March 2013 and that the agricultural use of the barns ceased in around 2016.
10. On the basis of the evidence before me I am satisfied that the buildings were indeed in agricultural use on 20 March 2013 and until around 2016. The submitted evidence seems to suggest that the buildings have been disused since 2016 and that no alternative usage has been undertaken. I have not been presented with any substantive evidence which would suggest otherwise and at the time of my site visit it was clear that the buildings are no longer in active use. As such, on the balance of probabilities, I find that the appeal buildings were last lawfully used solely for agriculture in connection with an agricultural unit and their use has not materially changed.
11. Notwithstanding this, the Council's interpretation of Paragraph X of the GPDO suggests that in order for a building to be considered an 'agricultural building' for Paragraph Q.(a) said building must be currently in active use for such purposes. However, in my view it is clear, through a wider reading of the relevant parts of the GPDO, that the intention is not to restrict the application of Class Q to agricultural buildings which are currently in active use but seeks to include those buildings where the use may have ceased to be implemented practically but where the lawful use has not changed. Indeed, the GPDO explicitly refers to the last known use of such buildings. I have no compelling evidence before me to support the Council's interpretation of the GPDO in this regard.
12. As such, for the reasons outlined above, in this respect, I consider that the buildings meet the requirements of paragraph Q.1(a) and the permitted development rights in Class Q of the GPDO apply to the appeal buildings.

Location

13. There is no specific guidance on what constitutes 'impractical or undesirable' for the purposes of criterion (e) of Q.2, but the Planning Practice Guidance (PPG) provides some further information about considerations which might be relevant.
14. The PPG sets out that 'impractical' reflects that the location and siting would "not be sensible or realistic", and 'undesirable' reflects that it would be "harmful or objectionable". The example of a building on top of a hill with no road access, power source or other services is given as an instance where conversion may be considered impractical and the example of the location of a building adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals is given as an example of a case where conversion may be undesirable.

15. The PPG is also clear that the fact that an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval.
16. The buildings are sited in close proximity to the existing farmhouse and I have no evidence to suggest that any issues would be present in ensuring that the proposed dwellings had access to power and other such services. Access to the properties would be taken from the existing access to the farmhouse. A secondary access, intended for use by farm vehicles, has recently been granted planning permission (ref 19/P/1620/FUL). As such the potential for conflict between residential vehicles and occupiers and farm traffic would be significantly reduced. Moreover, the evidence provided by the appellant, and my observations on site, also suggest that the volume of vehicular movements associated with the wider holding are reasonably limited.
17. I note that the potential for farm traffic to use the existing access would remain. However, though not shown on the plans, at the time of my site visit a metal gate had been constructed to separate the agricultural buildings and fields to the east of the site from the existing access and the barns which are the subject of this appeal. Furthermore, to my mind, the original access provides a less direct and, consequently, less desirable means of accessing the other farm buildings on site than the new access.
18. In any event, the original access leads onto an area of hardstanding with a good level of visibility, speeds within this area are most likely to be very low and I consider that the site would provide sufficient space to ensure that any crossover between farm traffic and residential traffic could be dealt with safely. Additionally, in a rural area such as this I would anticipate that the occupiers of any residential properties would be alert to the possibility of encountering some farm traffic in the vicinity.
19. Given the fact that farm vehicles are most likely to use the new access, the probable low volume of farm vehicular movements and the circumstances on site, I do not consider that the proposal would pose a harmful health and safety risk and would not be impractical or undesirable in this respect.
20. There is some dispute between the parties as to the precise size of the wider holding; the appellant states that it is 12 acres and the Council believe it to be 20. Irrespective of the exact size, to my mind, the holding is not such so as to be considered large. The proposed barns are situated in close proximity to other barns and outbuildings within the wider site.
21. At the time of my site visit the other barns on site appeared to be largely in use as storage units; of those barns closest to the appeal buildings, one contained a fairly insubstantial amount of hay and a small piece of farm equipment (covered in a tarpaulin), another contained a variety of farm paraphernalia including some small machinery. A few donkeys were grazing in a nearby field. Though the active farm buildings would be in close proximity the intention is for farm traffic to use the alternative access and, in my view, the activities currently occurring within the wider holding would not be such so as to cause undue harm, in respect of noise and disturbance, to the living conditions of any potential future occupiers. Furthermore, in rural areas such as this, rural activities and associated noise and disturbance is commonplace, and any future residents would likely be alive to this possibility.

22. Based on my observations on site, and the evidence provided by the appellant, I am of the view that the activities associated with the holding at present would not constitute intensive farming. Furthermore, I have no evidence to suggest that the nearby barns are used, or would be used, for silage storage or to store dangerous machines or chemicals. For these reasons, I consider that the proposal would not cause harm to potential future occupiers in respect of undue noise and disturbance and would not be undesirable in this respect.
23. I recognise that the farm buildings could be brought into a more active agricultural use in future. However, the holding is of a fairly small scale and I am persuaded by the evidence before me that any future use is highly unlikely to become so intensive so as to cause unacceptable harm to the living conditions of future residents and render the location of the barns undesirable.
24. The Council has drawn my attention to a number of other appeal decisions which they believe could be considered similar to the appeals before me. However, each case must be determined on its individual merits and the circumstances in each case are likely to be different. I have not been presented with the full details of these appeals; however, the circumstances appear different. For example, in one of the appeals the proposed dwellings would be physically connected to an agricultural building in active use, in others the type of agricultural use was very different and the intensity of the use appears to have been far greater than is the case in the appeal before me.
25. For the reasons outlined above, the location or siting of the buildings would not make it otherwise impractical or undesirable for the buildings to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. The proposals, therefore, comply with the provisions of Q.2(1)(e) of the GPDO.

Conditions

26. 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 considered the conditions suggested by the Council in light of the National Planning Policy Framework (the Framework) and the PPG.
27. Paragraph Q.2(3) of the GPDO specifies that development under Class Q must be completed within a period of 3 years starting with the prior approval date, so it is not necessary or reasonable to impose a separate time limit condition.
28. I have imposed a condition specifying the relevant plans as this provides certainty. In order to ensure that the development has a satisfactory appearance I have imposed a condition requiring the materials to be used to be in accordance with the approved plans unless the Council agree otherwise.
29. Additionally, in order to help ensure that wildlife and important ecological features are protected during the course of works I have also imposed a condition requiring the development to be carried out in accordance with the measures outlined in the Bat Emergence/Activity Surveys prepared by Country Contracts, dated July 2019.
30. In order to ensure that the development would not have an adverse impact in respect of flood risk, I have also imposed a condition requiring development to be carried out in accordance with the Flood Risk Management Plan prepared by David James & Partners.

Conclusion

31. For the reasons given above, the appeals are allowed and prior approval is granted.

L J O'Brien

INSPECTOR

Schedule of Conditions Appeal A

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing and Proposed Block Plan and Site Location Plan Drawing No. 25462/00/101 Rev C, Combined Existing and Proposed drawing - Dwelling 01 Drawing No. 25462/00/102 Rev A,
- 2) The materials to be used in the development hereby permitted shall be in complete accordance with the approved plans and specifications unless details of any alternative material have first been submitted to and approved, in writing, by the Local Planning Authority.
- 3) The development shall not take place except in strict accordance with the measures outlined in the Bat Emergence/Activity Surveys prepared by Country Contracts, dated July 2019. If amendments to the methodology are required, details of the changes must be submitted in writing and agreed by the Local Planning Authority before relevant works proceed. The development shall then be implemented in accordance with the agreed changes.
- 4) The development hereby permitted shall not take place except in complete accordance with the approved Flood Risk Management Plan prepared by David James & Partners.

Schedule of Conditions Appeal B

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Existing and Proposed Block Plan and Site Location Plan Drawing No. 25462/00/101 Rev C, Combined Existing and Proposed drawing - Dwelling 02 Drawing No. 25462/00/103 Rev C.
- 2) The materials to be used in the development hereby permitted shall be in complete accordance with the approved plans and specifications unless details of any alternative material have first been submitted to and approved, in writing, by the Local Planning Authority.
- 3) The development shall not take place except in strict accordance with the measures outlined in the Bat Emergence/Activity Surveys prepared by Country Contracts, dated July 2019. If amendments to the methodology are required, details of the changes must be submitted in writing and agreed by the Local Planning Authority before relevant works proceed. The development shall then be implemented in accordance with the agreed changes.
- 4) The development hereby permitted shall not take place except in complete accordance with the approved Flood Risk Management Plan prepared by David James & Partners.