



Appeal Decision

Site Visit made on 6 September 2021

by Gareth W Thomas BSc (Hons) MSc (Dist) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2021

Appeal Ref: APP/P1615/W/21/3274587

Underhill Farm, Ruddle, NEWNHAM, GL14 1DS

- 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 Steve Yarworth against the decision of Forest of Dean District Council.
 - The application Ref P1512/20/PQ3PA, dated 17 September 2020, was refused by notice dated 16 April 2021.
 - The development proposed is Prior Notification for the change of use of existing agricultural barn 1 residential dwelling and associated building operations.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) for the change of use of existing agricultural barn to 1no. residential dwelling and associated building operations at Underhill Farm, Ruddle, NEWNHAM, GL14 1DS in accordance with details submitted pursuant to Article 3(1) and Schedule 2, Part 3, Paragraph Q.2(1) of the GPDO through application Ref, Ref P1512/20/PQ3PA, dated 17 September 2020, subject to the conditions set out in the Schedule to this decision.

Applications for costs

2. An application for costs has been made by Mr Steve Yarworth against the Forest of Dean District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appellant submitted an amended plan of development during the application stage to remove reference to the introduction of timber cladding in lieu of the existing metal cladding with the proposal now indicating that the existing metal cladding would be retained and replaced where necessary. In addition, a section showing the extent of new building work was also included. It is clear from the Council's statement of case that they determined the application based on the original drawings submitted as part of the application. However, despite reference to the Wheatcroft¹ principle, I do not believe that the later plans evolve the scheme in any meaningful way, and I am content that no party would be prejudiced if the later plans were taken into

¹ Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37]. This decision has since been confirmed in Wessex Regional Health Authority v SSE [1984] and Wadehurst Properties v SSE & Wychavon DC [1990] and Breckland DC v SSE and T. Hill [1992]

consideration. I have therefore determined the appeal based on the later plans.

Background and Main Issue

4. Class Q of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a dwellinghouse, including any building operations reasonably necessary to convert the building. However, there are a number of circumstances where such development is not permitted, which are listed in Paragraph Q.1. These include amongst other things, whether the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point and where partial demolition would be necessary, such would go beyond what would reasonably be necessary to carry out building operations allowed by paragraph Q.1.
5. The main issue is therefore whether the proposal would be permitted development under the provisions of Class Q of the GPDO, with particular regard to whether the proposed development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point; and whether the extent of building works would exceed the limitations set within Part Q.

Reasons

6. There is no dispute that the building was solely being used for agricultural purposes on the 20th March 2013.
7. With respect to the external dimensions of the existing agricultural building, the Council has not adequately demonstrated that the proposed cladding would extend the dimensions of the building at any given point. The proposed plans of development, which included a section through the building show that the existing dimensions of the building would maintain the dimension of the existing structure. As such the external dimensions of the existing agricultural building would in my view be maintained at any given point as part of the proposal.
8. Whilst the Council had concerns regarding the extent of structural alterations that would be necessary in order to execute an acceptable conversion, this was on the basis of the original plans. Although the appellant claims that the revised scheme was submitted during the application process and that the Council chose not to treat the revised drawings as an amendment to the application, I have accepted these drawings for the purposes of this appeal as they merely provide detail to confirm the nature and extent of the alterations proposed. I am satisfied that the works do not go beyond what would be reasonable to provide acceptable living conditions for future occupiers. Moreover, in my view, the works are not of an overtly structural nature and do not substitute the structural integrity of the existing building.
9. Accordingly, I am satisfied that the proposed development would comply with the limitations set out by Paragraph Q.1 of Schedule 2, Part 3, Class Q of the GPDO, and as such benefits from permitted development rights.
10. I have subsequently considered the matters under Paragraph Q.2(1) of the GPDO and based on the evidence before me am satisfied that none of the

matters would require prior approval. The Council reached the same conclusion in their assessment of the application.

Other Matters

11. The appellant submitted a Preliminary Ecological Appraisal, Bat Survey and a Habitats Regulations Assessment screening report for consideration of the potential ecological impacts of the proposed development. The survey identifies potential impacts to protected bat species and offers recommendations to mitigate against these effects. Based on the evidence provided, I am satisfied that although no evidence of bats being present was found a precautionary approach is justified in this case taking account of the nature and condition of the building and the potential for the area in the immediate locality being suitable for foraging, particularly from the nearby Dean Hall Coach House & Cellar SSSI, which is known for its populations of Greater and Lesser Horseshoe Bats. However, bearing in mind the survey's findings and the comments of the Council's ecology officer and Natural England, adverse effects on any protected species can be mitigated against by way of appropriate conditions and therefore the proposal would be acceptable in this regard. The Council's assessment similarly supports this position. Notwithstanding the prior approval limitations previously stated, consideration of such ecology matters is necessary in accordance with the Wildlife and Countryside Act 1981 (as amended) and legislation relating to the protection of European Protected Species.
12. A number of representations were received from local residents, but the matters raised (other than the issue of lighting) relate to the principle of development and fall outside what can be considered under the permitted development prior approval process. The officer report is comprehensive and explains the process very well and I need not comment further in respect of those representations.

Conditions

13. For the avoidance of doubt, Paragraph Q.2(3) of the GPDO specifies that development under Class Q must be completed within a period of three years starting with the prior approval date.
14. Paragraph W(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. To ensure certainty and clarity it is necessary to impose a condition setting out the approved plans of development.
15. It is also necessary to impose conditions to mitigate the potential effects on protected bat species as identified within the submitted Preliminary Ecological Appraisal and Bat Survey. I therefore impose conditions relating to external lighting and the timing of development.
16. The Council has suggested conditions in line with these recommendations and are in my view appropriate. Thus, cycle storage and electric vehicle charging points constitute mitigation and are therefore considered necessary on the basis of achieving sustainable travel opportunities.

Conclusion

17. For the reasons given above I conclude that the proposal constitutes permitted development. The appeal should therefore be allowed and prior approval granted.

Gareth W Thomas

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following plans: Underhill 2E; Location Plan Revision B; Underhill eaves drawing.
2. No external lighting shall be installed without prior submission of a detailed lighting strategy submitted to and approved in writing by the local planning authority. The details shall clearly demonstrate that lighting will not cause excessive light pollution or disturb or prevent bat species using key corridors, forage habitat features or accessing roost sites. The details shall include, but not limited to, the following:
 - (i) A drawing showing sensitive areas and/or dark corridor safeguarding areas
 - (ii) Description, design or specification of external lighting to be installed including shields, cowls or blinds where appropriate.
 - (iii) A description of the luminosity of lights and their light colour
 - (iv) A drawing(s) showing the location and where appropriate the elevation of the light fixings.
 - (v) Methods to control lighting control (e.g. timer operation, passive infrared sensor (PIR)).

All external lighting shall be installed in accordance with the specifications and locations set out in the approved details. These shall be maintained thereafter in accordance with these details. Under no circumstances shall any other external lighting be installed.

3. Site clearance and construction shall be carried out in accordance with Forest of Dean District Council's Precautionary method of working for common reptiles (16th May 2012).
4. The development hereby permitted shall not be occupied until cycle storage facilities have been made available for use for at least 1 bicycle within secure, enclosed and directly accessible external storage near building entrances and those facilities shall be maintained for the duration of the development.
5. The development hereby permitted shall not be first occupied until the proposed dwelling has been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and Manual for Gloucestershire Streets. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point shall be of the same specification or a higher specification in terms of charging performance.