



Appeal Decision

Site Visit made on 28 September 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2021

Appeal Ref: APP/F0114/W/21/3277749

Stables and Tractor Shed at Meadow Farm, Ruett Lane, Farrington Gurney, Bristol BS39 6UP

- 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 Martin Pugh against the decision of Bath and North East Somerset Council.
 - The application Ref 20/04240/ADCOU, dated 30 October 2020, was refused by notice dated 29 December 2020.
 - The development proposed is conversion to three-bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was accompanied by a structural report, bat scoping survey and evidence of agricultural use at the site. This was not assessed by the Council when it made its decision and therefore represents new information. The appeals procedural guide makes it clear that 'the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought'¹.
3. Nevertheless, it is my view, that the additional information does not fundamentally alter the scheme in terms of its design, scale and layout. Whilst I appreciate that the information, in part, is technical in nature given that it relates to the appeal building's structural condition and ecological findings, the Council have had sight of it and had the opportunity to comment. I have therefore assessed the appeal on the basis of the additional information.
4. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). Comments were sought from the Council and the Appellant. As the main parties have had the opportunity to provide comments no injustice has been caused. I have considered the appeal on the basis of the revised Framework.

Background and Main Issues

5. Class Q (a) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits the 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) of the

¹ Annex M, M.2.1, The Planning Inspectorate Procedural Guide, Planning Appeals – England, August 2019

Schedule to the Use Classes Order. Class Q (b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) above.

6. Where development is proposed under Class Q(a) together with Class Q(b), and found to be permitted development, it is subject to the condition under paragraph Q.2(1) that before beginning the development, an application must be made to the Local Planning Authority for a determination as to whether the prior approval will be required as to (a) transport and highways impacts, (b) noise impacts, (c) contamination, (d) flooding, (e) location or siting, and (f) the design or external appearance of the building.
7. The Council considers that there is insufficient evidence to confirm that the appeal site was used solely for an agricultural use as part of an established agricultural unit on 20th March 2013. The proposal is also considered to exceed the quantum of works considered reasonably necessary to carry out building operations allowed by Class Q. Furthermore, in its decision notice, the Council has included a refusal reason relating to insufficient information submitted to assess the effects of the proposal on ecology, flood risk and highway safety.
8. In view of this background, the main issues in this appeal are:
 - Whether the proposal would be permitted development, having regard to whether the requirements of Schedule 2, Part 3, Class O of paragraph Q.1(a) of the GPDO would be met;
 - Whether the extent of the building operations would be reasonably necessary to convert the building to a dwelling, having regard to the requirements of the GPDO;
 - Whether or not the appeal building is suitable for conversion to a dwelling, having regard to its effect on flood risk and highway safety; and
 - The effect of the proposal on protected species.

Reasons

Whether Permitted Development

9. Paragraph Q.1.(a) of the GPDO states that development is not permitted by Class Q if the site was not solely used for an agricultural use as part of an established agricultural unit on 20th 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.
10. The appeal site comprises part of an L shape single storey building, subdivided into a series of bays. Some of these were empty during my site inspection, although I noted the larger, end bay being used to store agricultural machinery, and another being utilised as a wood store. A bungalow referred to as Meadow Farm is located a short distance to the west, and together these buildings are surrounded by a small number of pasture and arable field enclosures to the north and east.
11. The appellant contends that the appeal site complies with Paragraph Q.1.(a) and has submitted evidence in the form of a holding registration document dated September 2020, an Animal Health Registration document dated 2015

and a sample of livestock sales receipts between September 2012 and April 2013 relating to the rearing of lambs and ewes at Meadow Farm.

12. I have no reason to question the validity of those documents, nor has the Council raised any comments in relation to them. However, insofar as they relate to the appeal site, the holding registration document has not been accompanied with any details or drawing showing the extent of the holding, and whether or not it encompassed the appeal building within the unit. Moreover, whilst I note that the activities that would have likely taken place at the farm around 2013 would have related to the rearing of sheep, there are no specific details of how those agricultural activities related to the appeal building and whether it was in use for those or any other agricultural purposes during that time. Other than the storage of farm machinery within part of the building, there was limited visible evidence at the time of my site inspection, that the building once related to agricultural activities that would have persisted around 2013.
13. There is some further doubt regarding the 2.4 Ha of rented land. Again, whilst I do not doubt that it was for the purposes outlined (i.e. breeding/rearing lambs) I have not been presented with the terms of any lease agreement relating to occupation of that land. For example, there may have been seasonal limitations associated with it that may have removed it, albeit briefly, from being connected with the agricultural unit in question.
14. The Local Planning Authority may refuse an application, under paragraph W of the GPDO, where the developer has provided insufficient information to establish whether the development complies with any conditions, limitations or restrictions in Part 3. The burden of proof is on the applicant and in this case, on the basis of the evidence before me, I find that there is uncertainty as to whether the site complies with the requirements of the GPDO Schedule 2, Part 3, Class O of paragraph Q.1(a). Accordingly, the proposal would not be permitted development by Class Q.

Building Operations

15. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It states that development is not permitted if it would consist of building operations other than: (i) the installation or replacement of — (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwelling house; and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
16. The Planning Practice Guidance (the PPG) states that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. In this respect, building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission, would be permitted².
17. However, the PPG clarifies that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is

² Paragraph: 105 Reference ID: 13-105-20180615

reasonably necessary for the conversion of the building to residential use³. It is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right. This is a matter of fact and degree and requires an element of judgement. My attention has been drawn to the Hibbitt judgement which relates to the difference between conversions and rebuilding dealt with under Class Q. This is important because if a development does not amount to a conversion it would fail to be development permitted under Class Q (b).

18. The appellant's submission indicates that the proposed works to the appeal building would involve the introduction of new windows, cladding, replacing the existing roof and blockwork to fill in the existing open bays. These are considered reasonably necessary for the building's conversion and would be in line with those works deemed acceptable in the PPG.
19. The structural report found that the appeal building's block walls were sound, with no significant signs of cracking or settlement visible. However, with the current walls being only single skin blockwork, the survey questioned their overall stability if new windows were to be added. An additional skin is included in the recommendations as well as stiffening of piers or windposts. The latter would be required to accommodate the additional larch cladding proposed.
20. Yet, the report is less certain regarding the condition or structural integrity of the ground slab since so little of it could be inspected, and it may prove necessary to strengthen it by adding an entire reinforced slab on top of what's there. This, in my view would amount to significant alteration to the existing building.
21. Given that only a visual inspection was undertaken, I am unable to glean from the report whether the building has any foundations. If new foundations were required for the whole building to take the additional structural loads proposed, the extent of works may well go beyond maintenance, improvement or other alteration of the building and would therefore be development. Moreover, the excavation and installation of new foundations, and underpinning works, are not building operations that fall within Paragraph Q.1.(i)(aa) and (bb) of Class Q that are reasonably necessary for a building to function as a dwelling house. Such development would not be permitted under Q.1.(i) of the GPDO.
22. Therefore, I have found that: there are limitations in the structural report's inspection of the building, an entire new ground slab would be required, whilst it is not clear on the condition and suitability of foundations, and the scale and extent of works that could be necessary to enable the building to function as a dwelling house. Taking these together, there is insufficient information to determine that the existing building is capable of being converted to a dwelling and that those building operations would be to an extent reasonably necessary for the building to function as a dwelling house. On this basis, the proposal would not accord with the requirements of paragraph Q.1(i) of the GPDO.

Flood Risk and Highway Safety

23. Given that I have concluded above that the proposed development is not permitted under Class Q I have no need to consider the further issues in terms of the criteria contained within Q.2(1) (a) to (f) inclusive of the GPDO.

³ Paragraph: 105 Reference ID: 13-105-20180615

Protected Species

24. The Council has raised ecological concerns as a reason for refusal on the basis that the appeal building may contain features that make it suitable for use by wildlife.
25. While it is acknowledged that protected species are not specifically referred to in the GPDO, paragraph Q.2(1) of the GPDO does require consideration of whether the location or siting of a building makes it otherwise impractical or undesirable to create a dwelling house. Moreover, Regulation 9 of the Conservation of Habitats and Species Regulations 2017 imposes a duty to consider relevant Directives and whether there is a reasonable likelihood of Protected Species being present and affected by a proposal. This applies equally to prior approval applications for proposals that are said to be permitted development
26. At the time of the application being submitted, the Council were not presented with any survey details. This lack of information led to their refusal of the scheme on that ground. However, its officer's report indicated that the objection would have been withdrawn had a scoping survey with photographic records concluded that the building had negligible potential to support roosting bats.
27. The scoping survey submitted with the appeal concludes that the building has negligible bat roosting potential, while conditions could be put in place to control the effect that lighting at the site may have on bats. Based on the findings and recommendations of the scoping survey, along with the lack of any evidence to the contrary, I am satisfied that the proposal would not harm protected species. It would therefore accord with Policies NE3 and NE5 of the Bath and North East Somerset Placemaking Plan, adopted July 2017, where they require proposals to not adversely affect, directly or indirectly internationally protected species and that mitigation measures can be secured to prevent any significant adverse effect.

Conclusion

28. For the reasons given above, and notwithstanding my findings on protected species, I conclude that the proposal is not permitted development and that the appeal should be dismissed

RE Jones

INSPECTOR