



Appeal Decision

Site visit made on 7 December 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2021

Appeal Ref: APP/F0114/W/21/3278678

St. Julians Farm, St Julian's Road, Shoscombe, Bath BA2 8NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Alan Weeks against the decision of Bath and North East Somerset Council.
 - The application Ref 21/01678/ADCOU, dated 31 March 2021, was refused by notice dated 25 May 2021.
 - The development proposed is change of use of agricultural building to dwelling house (Use Class C3).
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Decision

1. The appeal is allowed and prior approval is granted under the provision of Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) for the change of use of agricultural building to dwelling house (Use Class C3) at St Julians Farm, Shoscombe, Bath BA2 8NE in accordance with the application Ref 21/01678/ADCOU, dated 31 March 2021 and the details submitted with it. The approval is subject to the conditions of the Order and those listed in the attached schedule.

Preliminary Matters

2. The appeal has been accompanied with a revised floor plan that includes a schedule of room and window dimensions. This information was not before the Council when it determined the application. However, this drawing has not altered the scale of the development, while the Council has had the opportunity to comment on the details during the appeal. Moreover, it accords with the revised provisions of the Order. Accordingly, this information is accepted, and I have had regard to it in my determination.

Main Issue

3. The main issue is whether the proposed development falls within the terms of the permitted development rights under Schedule 2, Part 3, Class Q.

Reasons

4. The permitted development right under Schedule 2, Part 3, Class Q(a) and (b) of the Order allows the change of use of an agricultural building and any land within its curtilage to a dwelling house together with building operations reasonably necessary to enable the conversion, subject to various limitations and conditions as set out in paragraphs Q.1 and Q.2 of that Class.
5. The agricultural building comprises a four-sided agricultural shed. The extension on the building's northern end, would be removed due to the poor condition of its

timber frame and metal sheet cladding. This would reveal an internal block partition within the building and become part of the proposed outer wall along with a new area of glazed windows and doors. Also in poor condition is the metal sheet cladding to the building's west elevation. This would be replaced with corrugated metal sheeting. A glazed window frame and new door would be inserted into the two large openings at the building's existing south elevation. Internal alterations would include a new floor, insulation, and a damp-proof course (DCP). The building's roof, supporting concrete frame and foundation would remain, as would most of the block wall at the east elevation.

6. The application was accompanied by a Visual Structural Inspection, which found that structural concrete elements appear to be in good condition and no signs of excessive carbonation, spalling or significant degradation were detected. Although the extension at the building's northern elevation would need to be removed, the report concludes that the building is structurally strong enough to take the likely loading from the proposed works without any significant alteration or enhancement. Having regard to this report and what I saw on my site visit I have no reason to disagree with that assessment.
7. Paragraph Q.1(i) provides that development is not permitted by Class Q if the development under Class Q(b) would consist of building operations other than (i) 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 dwelling house; and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
8. Paragraph 105 of the Planning Practice Guidance provides further advice that Class Q permits building operations that 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'. It goes on to say: 'Internal works are not generally development. For the building to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls, which are not prohibited by Class Q'.
9. Although the glazed areas proposed to the north and south cover most of those elevations, these are operations permitted by Q(i)(i). They would also allow natural light to enter rooms and would be reasonable for the dwelling to function in that regard. The new metal cladding along the building's west elevation would cover an extensive area, however, again, this is work that falls under the operations allowed by Class Q. Other windows and doors proposed would also constitute works that are allowed.
10. The floor area of the resultant dwelling would be approximately 169m². Therefore, the proposed DCP covering, concrete screed dressing and floor insulation would cover a large area. However, those are works that would reasonably be required to secure the dwelling from external moisture while ensuring it is thermally efficient. They would also not be freestanding or form a self-supporting shell, separate from that of the existing structure. Accordingly, they would be additions to the existing structure rather than rebuilding works.
11. Overall, the proposal would not involve any new structural elements, and the existing building would remain largely intact. Furthermore, the resultant building would not be significantly different in its external appearance. In these

circumstances, the works would constitute conversion of the building rather than re-building.

12. The Council contends that the quantum of works goes beyond the extent reasonably necessary to carry out building operations allowed by paragraph Q.1.(i)(i). In this regard, my attention has been drawn to the Hibbitt¹ case, which considered the difference between conversion and rebuilding. That case, however, involved a proposal to convert a steel framed barn which was largely open on three sides, and the proposed building works included the construction of all four exterior walls. The appeal proposal, by contrast, involves a building that is partially enclosed and includes existing openings that would be filled with glazing. The exterior walls would remain largely unaltered, and the roof would be retained in its entirety. The starting point for the conversion would not, therefore, be a skeletal structure, as in the Hibbitt case.
13. On the basis of the above the existing building is capable of conversion, the building operations proposed in the application are reasonably necessary to enable the building to function as a dwelling house, and they do not amount to rebuilding works. In reaching this view legitimate planning judgement has been exercised and consequently, the use and associated works are permitted by Schedule 2, Part 3, Class Q of the Order.

Other Matters

14. No further areas of dispute have been raised by the parties in respect of the remaining qualifying criteria under, Class Q (b), Class Q.1 and Q.2. From what I have seen, and the evidence before me I find no reason to reach an alternative conclusion.

Conditions and Conclusion

15. Section W (13) of the Order states that Local Planning Authorities may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. In this case, I have added reference to the standard condition set out in paragraph Q.2(3) relating to timescales. Details of surface water management at the site are necessary to remove any flood risks. These details are required for approval prior to development commencing as they would be required as part of building works. Conditions relating to contamination investigation and remediation are necessary to remove public health risks. It is necessary for a condition to keep parking and turning areas free from obstruction, in the interests of vehicular and pedestrian safety. A cycle storage condition is necessary to ensure that adequate facilities are provided for the appeal building and to encourage sustainable forms of transport.
16. For the reasons outlined above, and taking all other matters raised into account, I conclude that the appeal should be allowed.

R E Jones

INSPECTOR

¹ Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

Schedule of Conditions

- 1 The development must be completed within a period of 3 years starting with the date of this decision.
- 2 No development shall commence, except ground investigations and remediation, until details of infiltration testing and soakaway design in accordance with Building Regulations Part H (or any guidance if revised or replaced) have been undertaken to verify that soakaways will be suitable for the development. Those detail shall be submitted to and agreed in writing by the Local Planning Authority and implemented in accordance with the approved scheme prior to the first occupation of the development. If the infiltration test results demonstrate that soakaways are not appropriate, an alternative method of surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority and implemented, in accordance with the approved scheme prior to the first occupation of the development.
- 3 No development shall commence until an investigation and risk assessment of the nature and extent of contamination on site and its findings has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. The assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to: • human health, • property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, • adjoining land, • groundwaters and surface waters, • ecological systems, • archaeological sites and ancient monuments; (iii) an appraisal of remedial options, and proposal of the preferred option(s).
- 4 No occupation shall commence until a verification report (that demonstrates the effectiveness of the remediation carried out) has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required.
- 5 In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. Thereafter an investigation and risk assessment shall be undertaken, and where remediation is necessary, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report (that demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.

- 6 Prior to the first occupation of the development details showing the storage for at least 2 bicycles, are submitted to and approved in writing by the Local Planning Authority. No occupation shall commence until this area has been constructed in accordance with the approved details and shall not thereafter be used other than for the parking of bicycles in connection with the development hereby permitted.
- 7 The areas allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

*****End of Schedule*****