

Appeal Decision

Site visit made on 30 November 2021

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2021

Appeal Ref: APP/Y3940/W/21/3277617

Merlins Gate, Broad Town Road, Broad Town, SN4 7RB

- 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 & Mrs Colin Young against the decision of Wiltshire Council.
 - The application Ref PL/2021/04122, dated 26 March 2021, was refused by notice dated 20 May 2021.
 - The development proposed is described as "Prior approval application for change of use of agricultural building to dwelling."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). The main parties have had the opportunity to provide comments on the revisions and I have taken these into account in reaching my decision. I have considered the appeal on the basis of the revised Framework.
3. I have taken the description of development from the covering letter, as referenced in the application form.

Main Issues

4. The main issues are whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO, having particular regard to:
 - The extent of works, and
 - Whether the location of the building makes it undesirable for the building to change from agricultural use to a residential dwelling.

Reasons

Extent of works

5. Class Q permits development consisting of 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), as well as building operations reasonably necessary to convert the building.

6. Paragraph Q.1.(i) defines 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 dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out the building operations.
7. The Planning Practice Guidance further advises 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. Therefore it is 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 building is a steel portal framed structure, formed from 6 bays, comprising a mix of blockwork wall and timber cladding with a cement sheet roof covering. The application is accompanied by a Schedule of Works, outlining the works necessary for the building to function as a dwelling.
9. The two side elevations of the building currently comprise a low blockwork plinth with livestock feed barriers above, to some bays there is vertical timber cladding above, although this is restricted to less than half of the bay openings throughout the building. The end elevations are similarly constructed of low blockwork walls with timber cladding to the remainder of the elevations above, apart from open areas. The application details that the vertical timber cladding and blockwork areas will be retained with insulation added. The existing roof covering and structure, are to be retained, with insulation also added. The floor of the building currently comprises concrete with areas of hardcore, which it is proposed to replace with a new concrete floor slab.
10. While I acknowledge that the roof covering is to be retained (with a small area removed), as well as the other external finishes to the walls, the proposed scheme requires that almost 60% of the wall area of the building comprise elements of fresh build. Given the nature of the existing timber cladding, in that it is not currently weather tight, works other than the inclusion of insulation will be necessary to the retained elements. In addition, a new floor is required over the entirety of the floorspace of the building.
11. I accept that works set out in Class Q can, in some instances, be extensive. However, when considering the extent and nature of the works required in this case, I find as a matter of planning judgement that they would be of such magnitude to qualify as rebuild, or fresh build, of the structure, and thus would fall beyond the scope of Class Q.

Whether the location of the building makes it undesirable for the building to change from agricultural use to a residential dwelling

12. The appeal building forms part of a complex of buildings at the location. While one is currently undergoing conversion to be used for car storage purposes, the remainder appear to be able to be used for agricultural and/or stabling uses. These are located in close proximity to the appeal building and their possible use for the accommodation of livestock would result in an unacceptable reduction of the living conditions of the occupiers of the proposal, due to likely noise and odour impacts. While the appellants state there is no intention for

intensive livestock accommodation in these buildings, I find that even non-intensive use could result in adverse living conditions.

13. It has been suggested that the adverse effect of noise and odour could be mitigated through the use of a planning condition, limiting the occupancy of the proposed dwelling to persons employed within the agricultural business (and/or the car storage business). The GPDO sets out that conditions can be imposed if "reasonably related to the subject matter of the prior approval."
14. Even if I were to accept that an occupancy condition was reasonably related to the subject matter of the prior approval, I am not convinced that it would meet the test of reasonableness in this instance. The dwelling is not justified by way of any essential need and as such to limit the occupancy to those employed at the site would to my mind be overly onerous. Furthermore, given the lack of justification through any functional test, I cannot be sure that it would not be unduly difficult for the Council to resist the removal of such a condition in the future, should for example the businesses cease operating, the surrounding buildings be sold or the occupants' circumstances change.
15. Accordingly, I find that the location of the development makes it undesirable for the building to change from agricultural use to a residential dwelling, for the reasons given above.

Other Matters

16. The appellant has sought to compare the extent of works with those discussed by an Inspector in an appeal decision¹ that has been provided. However, it is clear that the details of the building being discussed were substantially different from the appeal building in this case. As such, the provided decision does little to dissuade me of my findings above.

Conclusion

17. For the reasons given above, I conclude that the proposal would not be permitted development under Schedule 2, Part 3, Class Q of the GPDO. Therefore, the appeal should be dismissed.

Martin Allen

INSPECTOR

¹ APP/Y3940/W/20/3265380