
Appeal Decision

Site visit made on 22 February 2022

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2022

Appeal Ref: APP/R3325/W/21/3282898

Land OS 9521 Part, West Coker Road, Yeovil, Somerset BA22 8TB

- 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 D Mead against the decision of South Somerset District Council.
 - The application Ref 21/01517/PAMB, dated 19 April 2021, was refused by notice dated 30 June 2021.
 - The development proposed is described as 'Prior approval submitted under Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, for the change of use of the agricultural building to 1 No. residential dwelling (Use Class C3).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr D Mead against South Somerset District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposal would be permitted development under Article 3 and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) having particular regard to the proposed building operations.

Reasons

4. The application was made under Article 3 and Schedule 2, Part 3, Class Q of the Order which 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) of the Schedule to the Use Classes Order; and (b) building operations reasonably necessary to convert the buildings. The application form and plans show that approval is being sought under both Classes Q(a) and (b).
5. The Order further states at paragraph Q.1(i) that development under Class Q(b) is not permitted if it would consist of building operations other than 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 dwellinghouse.

6. Permission under Class Q is conditional upon the developer first applying to the local planning authority for a determination as to whether its prior approval would be required as to the matters set out in paragraph Q.2(1) of the Order. However, paragraph W(3) of the Order stipulates that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with any conditions, limitations or restriction specified as being applicable to the development in question. The parties disagree as to whether the building operations proposed in this instance would fall within the scope of the works permissible under Class Q(b) of the Order.
7. The proposal relates to a Dutch barn which has been extended using a single storey mono-pitch structure. The structural report¹ submitted describes the Dutch barn as having a steel frame comprising 'I' steel sections and tubular trusses. The main frame of the mono pitch barn comprises steel beams with timber purlins and sheeting rails. In general terms both buildings have profiled steel sheeting to three elevations and are open on the eastern elevation, albeit that there are low level metal sheet doors. The roof of the mono pitch barn is also profiled metal sheeting whereas the curved roof of the Dutch barn is corrugated fibre cement sheeting. The floor for both elements is comprised of soil. It further states that none of the columns have any sort of concrete surround or base plate and it is likely that the posts are concreted into the foundations. No direct comment is made on the nature of the foundations. Nevertheless, the report states that the existing building is in very good condition.
8. The proposed building operations detailed reflect the conclusion found that the building would be unlikely to perform adequately under a greater load condition. As such, means of supporting additional weight independent of the existing structure would be necessary to secure the structural integrity of the proposed dwelling. Within the mono-pitch barn a new ceiling structure would be supported on perimeter walls of lightweight masonry or timber framing inside of the existing steel frame. A similar approach could be used in relation to the Dutch barn, or alternatively modern insulated composite panels of similar weight to the existing materials might be used. A lightweight first floor within the Dutch barn would be supported by external perimeter walls and lightweight internal partitions. A new concrete floor slab and perimeter foundation would support the upper structure. The new supporting system proposed would rely upon a diaphragm action in the floors and racking resistance within wall panels and would be mechanically tied to the existing frame.
9. The Council does not dispute the structural information which has been prepared by a qualified engineer, and I have not been provided with any technical evidence to undermine it. Hence, it carries significant weight to show that the proposed development could perform adequately in structural terms. My approach in this regard is generally consistent with that of the Inspector in the appeal highlighted².

¹ Structural Report prepared by Fairhurst, reference 138678 dated August 2020 & Addendum Structural Engineers Report prepared by Fairhurst, dated July 2021.

² Appeal Reference APP/W3330/W/21/3268761, Paragraph 5: Appendix 7, Appellant's Statement of Case

10. Nevertheless, Planning Practice Guidance (PPG)³ advises that the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling, clarifying that it is not the intention of the permitted development right in Class Q(b) to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. In this respect the PPG refers to relevant case law⁴ to which I have had regard.
11. The caselaw established that Class Q(b) only permits building operations necessary to convert the building, and therefore if a development does not amount to a conversion, then it fails at the first hurdle, even though the building operations may fall within those listed in paragraph Q.1(i). Furthermore, whether a proposal constitutes a conversion or a rebuild is a matter of planning judgement and the nature and extent of the proposed building operations are a relevant consideration in making that assessment.
12. In this case, from my own observations and the information provided, the following can be deduced. Firstly, it appears that the existing profiled sheet metal cladding to the walls would be replaced⁵, as would the roof covering⁶. Effectively, aside from the existing structural steel frame, new walling would be introduced to the majority of all four elevations and notable areas of new fenestration would be inserted in the currently open eastern elevation. This amounts to a substantial amount of new material.
13. Moreover, in addition to the vertical diaphragms and horizontal systems described in the addendum structural report, internal works would be required to provide appropriate insulation to the walls and roof, as well as providing the first floor and internal partition walls. Although PPG confirms that internal works are not generally development, these contribute to the overall building operations proposed to provide the dwelling in this case. In addition, new mains services and a private drainage system would be provided. Accordingly, taken cumulatively, these works amount to extensive building operations.
14. Furthermore, a new floor slab and perimeter foundations are proposed. The proposed cross section⁷ is annotated showing new foundations in addition to the existing pad foundations. The excavation and installation of foundations are not included in the list of permitted operations set out in paragraph Q.1(i) but based on the structural information provided would be necessary to support the totality of the works. In the absence of evidence to show otherwise, this comprises development outside of the scope of development permitted by Class Q of the Order.
15. Consequently, the cumulative extent of the works proposed to facilitate the residential use would be extensive and of such magnitude that they would go beyond what might reasonably be described as a conversion. In practical terms, the proposed development would need to start afresh with only a modest amount of help from the original Dutch barn and mono-pitch building.

³ Paragraph 105 Reference 13-105-20180615

⁴ *Hibbitt and another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin)

⁵ Paragraph 5.2(i) Appellant's Statement of case; Recommendations of Structural Report dated August 2020; Plan detail 4295/011 of Existing External Walls, Appendix 6, Appellant's Statement of Case.

⁶ Cross section through Dutch Barn, drawing no 4295/010, Appendix 5 Appellant's Statement of Case.

⁷ Drawing number 4295/010, Appendix 5, Appellant's Statement of Case

16. In reaching my findings I have paid close attention to the structural reports provided and the opinion given that the existing structure could be converted to residential use. I do not disagree with that conclusion but find that the extent of the works necessary to do so, would fall outside of the limitations of the permitted development in Class Q of the Order.
17. As this turns upon a judgement regarding the extent of building operations in any given case, it is not entirely surprising that outcomes will differ according to the individual circumstances of the relevant building. By comparison, the appeal decision previously mentioned concerned a horticultural glasshouse with a solid concrete floor slab, where it was proposed to retain the glass roof, low-level block walls and majority of glazed side wall panels. Hence, it related to an entirely different type of building and did not propose the same building operations as the proposal before me. Therefore, in this respect it carries little weight in the assessment of the appeal proposals.
18. Accordingly, I find that the development proposed would go beyond building operations reasonably necessary to convert the building in question into a dwellinghouse and as such, would not benefit from the permitted development rights under Schedule 2, Part 3, Class Q(b) of the Order.

Other matters

19. There is no dispute between the parties regarding the matters listed in Condition Q.2(1)(a)-(g) of the Order. Nevertheless, this would not detract from the overall nature and extent of the building operations proposed in this case. Hence these factors would not lead me to find otherwise in relation to the main issue.
20. The site is within the catchment of the Somerset Levels and Moors Ramsar site, a habitat recognised as a European site under the Conservation of Habitats and Species Regulations 2017 (the Regulations) as being of international importance for birds. Phosphate levels, in part arising from residential development are having a negative impact on the integrity of the habitat. Article 3(1) of the Order grants planning permission for the classes of development specified in Schedule 2 subject to Regulations 75-78 of the Regulations. In general terms, where the development is likely to have a significant effect on the integrity of a European site, separate written approval must be obtained from the local planning authority before any development can commence. The appellant questions whether this would be applicable in this case⁸. However, given that I have found the proposal would not be permitted development under the Class of the Order claimed, there is no need to consider this matter further.

Conclusion

21. For the reasons given and based on the evidence presented, I conclude that the proposal is not permitted development within Schedule 2, Part 3, Class Q of the Order. The appeal, is therefore, dismissed.

Helen O'Connor

Inspector

⁸ Email dated 11 November 2021