



Appeal Decision

Site visit made on 11 November 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Appeal Ref: APP/F0114/W/22/3300779

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 Article 3(1), 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 Martin Pugh against the decision of Bath and North East Somerset Council.
 - The application Ref 22/00331/ADCOU, dated 21 January 2022, was refused by notice dated 18 March 2022.
 - The development proposed is described as 'Conversion to three-bedroom dwelling'.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made against Bath and North East Somerset Council. This application is the subject of a separate decision.

Preliminary Matters

3. The description of development in the banner heading above has been largely taken from the original application form. However, I have amended it to remove reference to the scheme being a 'resubmission' as this wording is superfluous due to it not relating to the development proposed.
4. The appeal proposal relates to a prior approval notification made under Article 3(1), Schedule 2, Class Q, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDO). Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

Main Issue

5. The main issue is whether the proposal would be permitted under Article 3(1), Schedule 2, Part 3, Class Q of the GPDO, specifically whether the proposal would be acceptable in relation to transport and highways impacts (Q.2(1)(a)).
6. There is no dispute that the other criteria of Class Q are satisfied. Consequently, there is no need to give them further consideration in this decision.

Reasons

7. The appeal site comprises part of a single storey, L-shaped building that consists of several looseboxes and an attached store. The building is associated with Meadow Farm, a detached bungalow that is located immediately to the west of the site. Open countryside lies to the north and east of the site, while industrial uses lie to the south.
8. Access to the appeal site (and Meadow Farm) is provided off Ruett Lane, across a privately owned open yard (referred to as 'Ruett Yard'¹) that is also shared with four neighbouring dwellings. A block paved access track then further runs alongside Meadow Farm and proceeds to near the edge of the appeal site. A public right of way (PROW) footpath 'CL10/17' crosses Ruett Yard and continues to run along the access track to the appeal site before providing access to land beyond.
9. The application was refused on the basis that the site does not benefit from a safe and lawful access. Concerns were specifically raised in relation to whether a fire tender can suitably turn within appropriate range of the proposed dwelling; whether vehicles accessing the proposal would compromise the safety of the PROW; and whether the site benefits from a lawful right of way for vehicular access.
10. The appellant contends that a fire tender is capable of appropriately turning within 45m of the appeal site and therefore would have suitable levels of accessibility to the site. To support this view, a swept path analysis has been submitted that shows a fire engine (of 9.57m in length) is able to enter and leave the site, without excessive reversing, by utilising the existing access track alongside Meadow Farm and Ruett Yard. However, the submitted plans highlight an existing area of parking for up to four vehicles alongside Ruett Yard. This parking area is positioned very close to the demonstrated turning area for the fire engine. It is unclear precisely which property/properties these spaces are controlled or used by, but vehicles were occupying the spaces during my site visit. Additionally, several other vehicles were also parked in various other locations, along the edges of Ruett Yard with the parking arrangements appearing highly informal in nature. Indeed, from my observations on site, vehicles were parked in areas which would prevent the manoeuvres shown in the appellant's swept path analysis.
11. In addition, the plans for the proposal indicate that three parking spaces are to be provided. These spaces are shown outside the application site boundary, located between the appeal site and Meadow Farm. It is unclear from the plans and submitted documents whether all of the parking spaces are intended for the occupiers of the proposed dwelling or whether any would also be allocated to Meadow Farm. At the time of my site visit a vehicle (which I understand to belong to the appellant currently residing at Meadow Farm) was already utilising this parking area. Further vehicles were also parked tight to the south-western elevation of Meadow Farm. Although some of the neighbouring residential properties, including Meadow Farm, have associated garages, these appeared to either be small in scale or positioned so that they would be awkward to manoeuvre vehicles in/out of. As such, the garages appeared as though they are unlikely to be frequently used for parking of vehicles.

¹ From representations received, I understand that Ruett Yard is privately owned by Ruett Yard Limited a company associated with the owners/occupiers of the four neighbouring dwellings.

12. For these reasons, and in the absence of specific details of the parking arrangements for the appeal proposal and an understanding of the wider parking arrangement for neighbouring properties, there is a real risk that the fire tender access to the proposed development would be inadequate. The proposed development could also result in additional vehicles parking in areas that would further hinder the ability for a fire tender to suitably manoeuvre within 45m of the proposed dwelling. I am therefore not satisfied that appropriate safe access would be provided for a fire tender, regardless of whether such a vehicle has the right to access private land.
13. I am unconvinced that the installation of a sprinkler system within the proposed dwelling is a reasonable solution to overcome the inappropriate access for fire tender vehicles. Whilst I note that Manual for Streets suggests there may be instances where the use of such systems may be appropriate, I have been provided with no substantive evidence as to when this may be. Additionally, no robust evidence has been provided to demonstrate that a sprinkler system would provide an equivalent (or appropriate) level of protection to the property as that from a fire tender. The appellant has referred to the fact that the issue could be addressed under legislation relating to Building Regulations. However, I do not have specific details before me to demonstrate whether such sprinkler system(s) would be a requirement under Building Regulations or sufficient to address the issue.
14. Therefore, based on the evidence before me, the proposal would not provide suitable vehicular access for an emergency vehicle and I cannot be satisfied that this can be suitably mitigated.
15. Turning to the PROW, the appellant contends that this turns tight against the south-eastern boundary of the site and would be unaffected by the proposed development's access arrangement or vehicle parking. However, both the appellant's proposed site plan and the Council's mapping data indicate that vehicular access to the appeal property (and the proposed off-site car parking spaces) would necessitate vehicles travelling along the PROW. Vehicles that are within the proposed parking spaces themselves would not though interfere with the PROW.
16. Due to its scale, the proposed development is likely to generate only a limited level of vehicle trips. The characteristics of the access route, including its short length and proximity to residential properties is such that vehicles using it are also likely to be travelling at low speeds and only for a short period. Furthermore, there are clear sightlines along the PROW, while there appeared to be sufficient space for a vehicle to pass by a pedestrian along the route, particularly given the increased space provided by the recent tree clearing along part of the access track.
17. Notwithstanding the past agricultural use of the site, the proposal may still lead to an increase in vehicle movements to/from the site. However, based on the above factors, and even if the PROW is heavily used, I do not consider that vehicle movements associated with the proposal are likely to cause any significant harm to the safety of pedestrians and any others utilising the PROW. Despite this, whether vehicles can lawfully drive across the PROW is a separate legal issue and is not a matter for this appeal.

18. Similarly, concerns regarding whether the occupiers of the proposed development would have a right of access to the boundary of their property is a civil matter and does not constitute a reason to refuse the appeal proposal.
19. Nevertheless, for the reasons above, I conclude that the proposal would result in unacceptable transport and highway impacts with particular regard to safe access for a fire tender. Therefore, overall, the proposal would not comply with the condition set out at paragraph Q.2(1)(a), Part 3, Class Q of Schedule 2 of the GPDO.
20. Whilst not determinative, in so far as it is relevant to the appeal, the proposal would therefore conflict with the aims outlined under Section 9 of the Framework, in respect of providing safe and suitable access for all users.

Conclusion

21. As the proposal would not comply with the requirements of Article 3(1), Schedule 2, Part 3, Class Q of the GPDO, prior approval cannot be given for the proposal and the appeal is therefore dismissed.

Lewis Condé

INSPECTOR