



Appeal Decision

Site visit made on 2 November 2022

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2022

Appeal Ref: APP/Q3305/W/22/3299128

Wellesley Cottage, Upper Wellesley Lane, Dulcote, Wells BA5 3QA

- 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) and 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 Rob Coulson against the decision of Mendip District Council.
 - The application Ref 2021/2349/PAA, dated 6 October 2021, was refused by notice dated 26 November 2021.
 - The development proposed is prior approval for a proposed change of use of an agricultural building to a dwellinghouse (Class C3) and for associated operational development.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3 (1) Schedule 2, Part 3 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GDPO) for the prior approval for a proposed change of use of an agricultural building to a dwellinghouse (Class C3) and for associated operational development at Wellesley Cottage, Upper Wellesley Lane, Dulcote, Wells BA5 3QA in accordance with the terms of the application, Ref 2021/2349/PAA, dated 6 October 2021, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, 1493/001, 1493/002, 1493/010, 1493/020, 1493/040.
 - 2) Prior to the installation of any external lighting, a lighting assessment and scheme shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the approved details.

Preliminary Matters

2. The description of development in the banner heading above is taken directly from the Council's Decision Notice. This more accurately reflects the development proposed than that set out in the application form. Accordingly, I have determined the appeal based on the Council's description of development.

Main Issue

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

of the GPDO, with specific regard to the extent of the proposed building operations.

4. 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

Building operations

5. Class Q(b) of the GPDO permits building operations reasonably necessary to convert the relevant building to a use falling within Class C3 (dwellinghouses) subject to limitations. Paragraph Q.1(i) states 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 dwelling house.
6. The Planning Practice Guidance (PPG) advises that the right assumes that the agricultural building is capable of functioning as a dwelling and that it is not the intention of the permitted development right to allow rebuilding work that would go beyond what is reasonably necessary for the conversion of the building to a residential use. As such, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to benefit from the permitted development rights.
7. Neither the GPDO nor the PPG define the term 'reasonably necessary'. Consequently, this is a matter of planning judgement based on fact and degree of an individual case. My attention though has been drawn to the relevant case law¹ by both parties. The case indicates that the building must be capable of conversion to residential use without operations that would amount either to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building.
8. The existing building is a steel framed, 'Dutch' style barn with a mono-pitch lean to on the one side. A concrete floor is visible under the lean to, but the remainder is a dirt floor. The north and east elevations are enclosed by a combination of blockwork walls, timber framing and metal sheeting. The roof is also covered by metal sheeting. The southern elevation is enclosed across the lean to by a blockwork wall and sheeting, but the remainder of the elevation is open. The western elevation of the lean to is also open and a small ventilation gap is present on all elevations between the roof sheeting and wall.
9. The appellant has provided a structural inspection of the existing building by a suitably qualified person. It identifies that the building's steel frame and roof is in a reasonable condition and does not require strengthening to accommodate the building operations. Lateral stability is already provided by knee braces and moment connections between the rafters, columns and blockwork walls. There is no evidence of any damage or notable decay within the timber framework. The existing structure and foundations could also be used to support the load from the required works to convert the building. This includes

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

external walls in the southern and western elevations as well as infilling the ventilation gaps, laying a floor and carry out internal works.

10. At the time of my visit, the blockwork walls, timber framework, roof and substructure all appeared in reasonably good condition. No substantive evidence has been provided that challenges the appellant's structural findings. From the evidence before me, and my on-site observations, I therefore find that the building is in a reasonably good condition structurally.
11. The proposal indicates that the main steel structure, blockwork walls, timber frames as well as the roof and wall metal sheeting would be retained. No second floor is proposed, but internal walls, insulation and an extension of the concrete floor would be needed to form the dwelling. Where the existing openings are to be infilled, timber framing would be used and supported by the existing foundations. This would include infilling of the ventilation gap, as well as the forming of walls in place of the large openings to the southern and western elevations. All but one of the door and window insertions are proposed within the proposed southern and western walls.
12. Despite the works to form the walls in the southern and eastern elevations being considerable, the shape and form of the building, coupled with large parts of the structure, walls and roof would be retained. Furthermore, the minimal number of proposed openings in the remaining elevations would limit the building operations required to convert the building. Although extensive internal works would be required, including laying of a suitable floor, internal walls and insulation, the evidence before me indicates that the existing structure would not require further structural works to facilitate these internal changes.
13. I would categorise the works as reasonably necessary to facilitate the conversion, without amounting to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. I am satisfied that the structural integrity of the building is sound and that it would be maintained to form an integral aspect of the new dwelling. Despite the Council's concerns regarding the totality of the works, I consider that they do not exceed those permitted under Class Q.1(i) of the GPDO.

Other Matters

14. Where there is a reasonable likelihood of a protected species being present, it is essential that the presence of protected species, and the extent to which they would be affected by the development is understood.
15. A Biodiversity Survey and Assessment was submitted as part of the appeal. It states that the site is close (0.1km) to the Twin hill Woods and Meadows Site of Scientific Interest (SSSI). The assessment identifies that the works would not affect the SSSI, and the barn has a low suitability to bats, particularly horseshoe bats, as a day roost. A further dusk emergence Bat Survey was carried out on 6 September 2021, but no bats were recorded emerging from the barn. The survey recommends pre work checks are made by a qualified ecologist, Furthermore, any external lighting to be provided should be low level and with timers and a bat box is provided as an enhancement.

16. In view of these findings, I am satisfied that it is unlikely that bats or any other protected species would be present in the barn, and its conversion would not result in an unacceptable impact upon the protected species or its habitat.

Conditions

17. Paragraph W (13) of the GDPO allows for the grant of prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The Council did not raise any concerns over the Bat Survey during the prior approval process. However, in correspondence during the appeal it was suggested that the Bat Survey was carried out outside of the May to August and is now more than a year old. As such, a condition should be included for a further survey to be carried out prior to any works. Also, conditions on lighting and biodiversity enhancements would be required.
18. I have regard to the Council's suggested condition on the need for a further survey. Although I note that the Bat Survey was carried out outside of the suggested period, this is a guidance period, and the survey was carried out very close to that period in early September. Furthermore, at the time it was submitted to the Council it was not a year old. As such, I am of the view that the results of the submitted Bat Survey can be relied upon and a condition requiring a further survey is not necessary. The bat box enhancements are also shown on the proposed plans. As such, it is unnecessary to impose an enhancement condition. However, having regard to sensitivity of the area for bats, and the potential for external lighting to be required, I have included an external lighting condition.
19. The Council has not suggested any other additional conditions to be imposed other than condition subject to Class Q, which requires the development to be completed within 3 years of the prior approval date. I have also included a condition to clarify the approved plans, which provides some certainty on the development, and the agreed position of the recommended bat box. As paragraph Q.2(3) of the GDPO stipulates that the development shall be complete within a period of 3 years, a condition is not required in this regard.

Conclusion

20. For the reasons given above, the appeal is allowed, and prior approval granted.

M. P. Howell

INSPECTOR