



Appeal Decision

Site visit made on 3 May 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 July 2023

Appeal Ref: APP/R3325/W/22/3310590

Buildings 1 & 2, 2 Wood Road, Ashill, Ilminster, Somerset TA19 9NP

- 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 Philip Underhill against the decision of South Somerset District Council.
 - The application Ref 22/02139/PAMB, dated 20 July 2022, was refused by notice dated 4 October 2022.
 - The development proposed is the conversion of barn to 3no dwellings (smaller dwelling houses) together with parking and garden areas.
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Decision

1. The appeal is dismissed.

Applications for costs

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

Preliminary Matters

3. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) permits the change of use of a building and any land within its curtilage, from use as an agricultural building to a use falling within Class C3 (dwellinghouses) together with building operations reasonably necessary to convert that building, subject to limitations and conditions.
4. Paragraph Q.1(i) sets out what are considered to be reasonably necessary building operations by Class Q(b), including (i) the installation or replacement of the following, to the extent that would be reasonably necessary for the building to function as a dwellinghouse (aa) windows, doors, roofs or exterior walls; or (bb) water, drainage, electricity, gas or other services; and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by Q.1(i)(i).
5. Paragraph Q.2(1) sets out that the development is permitted under Class Q(b) subject to the condition that before beginning the development the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required regarding several considerations. This includes (f) the design or external appearance of the building.

6. Where an application is made as to whether prior approval is required for development under Class Q, paragraph W(3) of Part 3 of the GPDO states that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified as applying to the development in question.

Main Issues

7. The main issues are:

- whether the proposed development falls within the permitted development rights under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to paragraph Q(b); and
- if so, whether the prior approval details relating to the design or external appearance of the proposed development would be acceptable.

Reasons

Whether permitted development under paragraph Q(b)

8. The appeal site comprises two adjoining agricultural buildings (Building 1 and Building 2) which, at the time of my site visit were being used for the storage of straw, agricultural equipment including several tractors and a bailing trailer, and had an arrangement of pens for animals.
9. Both buildings have a steel frame construction with part low level blockwork walls and part steel sheet cladding to the side and rear elevations. Building 1, located furthest away from Wood Road, is open fronted with a lean-to-side extension, and is partially uncovered whilst the sheet clad front elevation to Building 2 has a large opening. Both buildings have pitched roof forms with steel or cement sheet roofs and have a large window in the rear elevation.
10. Whilst criteria Q.1(i) requires that any building operations should be to the extent reasonably necessary for the building to function as a dwellinghouse, the Planning Practice Guidance (the PPG) advises that this right assumes that the agricultural building is capable of functioning as a dwelling¹. In effect, it is only when the existing building is already suitable for conversion to residential that the building would be considered to have this permitted development right as it is not the intention of the right to allow rebuilding work beyond what is reasonably necessary for a conversion. The PPG also acknowledges that internal works are generally not development and that for a building to function as a dwelling it may be appropriate to carry out internal structural works, including to allow for an upper floor or internal walls, which are not prohibited by Class Q.
11. Having regard to the above and notwithstanding that the Design Supporting Statement² submitted with the application states that the proposed development would retain the existing roof structure, the plans show that approximately half of the roof of both buildings would be removed. This would also necessitate the removal of the supporting columns, trusses and cladding to the upper parts of the front and side elevations in the front section of both

¹ Paragraph: 105 Reference ID: 13-105-20180615, Revision date: 15 06 2018

² Prepared by Broakoak Building Design, dated July 2022

buildings, leaving only the low-level blockwork walls remaining. The areas to the front of the proposed dwellings would then be used for parking and garden space.

12. The proposed development also comprises the construction of a new, predominately glazed elevation to the front of both buildings, the installation of new internal walls, an upper floor to Building 1 and an independent ceiling to the dwellings. The Design Supporting Statement confirms that no new loading would be placed on the remaining wall structures. Instead, an independent timber frame, including the upper floor of Building 1, would be constructed on the existing concrete slab floor, resulting in the remaining structure of the buildings providing a weatherproof envelope to the dwellings.
13. The Structural Report³ submitted with the application confirms that the main structural elements of the buildings are capable of safely supporting the proposed loads and can be satisfactorily converted for residential accommodation. Whilst there is an apparent inconsistency between the Design Supporting Statement and the Structural Report concerning the new loading which would arise from the appeal scheme, the conclusions of the latter are based on loading calculations provided which set out the percentage increase in load to the roof that would result from the proposed development. Nonetheless, I note that the conclusions of the Structural Report rely upon only visual surveys of a lack of apparent signs of movement or cracking to ascertain the suitability of the existing foundation/slab for the proposed development. In that regard, the Structural Report acknowledges that no trial holes were dug and parts of the structure which were otherwise covered, unexposed or inaccessible have not been inspected. Therefore, it was unable to report that any such part of the buildings was free from defects.
14. In addition, the Structural Report identifies that, whilst the retention of the primary steel structures in both buildings is proposed, along with the blockwork and clad elevations, there is evidence of corrosion and mechanical damage to some of these elements. Although there is a suggestion that some repairs or replacements may be necessary and the Design Supporting Statement refers to the overhauling of the roof covering/wall cladding, no further detail is provided. On this basis, the degree to which structural replacements or works to the existing foundations would be necessary for the buildings to function as dwellings remains uncertain when taking account of the evidence before me. In such circumstances, I am unable to conclude with certainty whether following the partial demolition, the remaining structure of the buildings and their foundations would be capable of safely supporting the proposed development when limited to works that would constitute conversion of the buildings within the limitations and restrictions of Class Q of the GPDO.
15. In reaching the above view, I have taken into account that, although paragraph Q.1(i)(ii) permits partial demolition, this relates to what is reasonably necessary to carry out building operations set out in Q.1(i)(i). As previously stated, these operations comprise the installation or replacement of the following, to the extent that would be reasonably necessary for the building to function as a dwellinghouse (aa) windows, doors, roofs or exterior walls; or (bb) water, drainage, electricity, gas or other services. Other development would not be permitted. In those respects, the demolition of a substantial

³ Prepared by Brian Jones Structural Engineers Ltd, Revision A dated July 2022

section of the building would appear to potentially facilitate building operations that are not expressly permitted by Q.1(i)(i) and, therefore, would go beyond what is reasonably necessary for the buildings to function as a dwellinghouse in that context.

16. In terms of what is 'reasonably necessary' my attention has been drawn by the main parties to the *Hibbitt* Judgement⁴. Irrespective of the differences between the appeal scheme and the agricultural building⁵ subject of the *Hibbitt* Judgement, key principles were established concerning the scale of building operations. To be permitted under Class Q, building works would, among other things, need to be of a scale which would fall within the scope of a 'conversion' rather than amount to a rebuild or fresh build. Whether or not the proposed works go beyond the scope of a conversion is a matter of planning judgement with reference to the circumstances of each case.
17. I accept that substantial works could fall under the scope of Class Q and that some of the proposed building operations, such as the installation of windows and doors, are specifically covered by Q.1(i). Additionally, as advised by the PPG, internal works are generally not development and that for a building to function as a dwelling it may be appropriate to carry out internal structural works. Accordingly, due to the scale of the demolition works proposed in combination with the uncertainty regarding whether parts of the existing buildings, including foundations, are free from defect and/or would not require repairs to or replacement of elements of the buildings or their structure, means I cannot be certain that the proposed development would not require building operations that would exceed those permitted under paragraphs Q(b) and Q.1(i)(i).
18. Consequently, I conclude that there is insufficient evidence to demonstrate that the proposed development would not require building operations that would go beyond what would be reasonably necessary for the buildings to function as a dwellinghouse. It follows that, based on the evidence before me, I cannot find that the appeal scheme is development permitted under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to paragraph Q(b).

Prior approval matters

19. Given my conclusion that, based on the evidence before me, the proposed development would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required, as it would not alter the outcome of the appeal.

Other Matters

20. My attention has been drawn to other planning applications⁶ on the appeal site comprising a variety of scales of residential development, to justify the principle of such development on the site. However, given the permitted development rights under Class Q of the GPDO allows for the conversion of an agricultural building to residential development, provided various criterion and

⁴ *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin).

⁵ Appeal ref: APP/P3040/W/16/3142052

⁶ Council planning application refs: 16/04454/OUT (and appeal ref: APP/R3325/W/17/3172435), 18/04010/PAPA, 19/01450/OUT and 20/03456/FUL

conditions are met, the principle is already established. As such, these planning applications are not determinative in this case.

21. I have also been referred to several recent decisions, including those made by the Council, relating to approved Class Q applications and the interpretation of Class Q and the PPG. Whilst limited details have been provided of each case, I have taken them into account. Nevertheless, each application differs from the appeal before me in terms of the individual circumstances of the agricultural buildings, the matters considered by the Council and the conversion works proposed. I note the consultants advising the appellant are experienced in proposals involving the conversion of agricultural buildings. Nonetheless, I have necessarily determined this appeal on its individual merits based on the scheme before me and the information accompanying it.
22. I acknowledge the representations made by several interested parties, including the Parish Council, confirming support or no objection to the proposed development. The proposed development would result in additional dwellings to the housing supply of the district which would also provide economic and social benefits including supporting existing services and facilities. However, as the appeal relates to prior approval, these issues fall outside the scope of matters that can be considered in this case.

Conclusion

23. For the reasons given above, I conclude that the proposed development is not permitted development under Schedule 2, Part 3, Class Q of the GPDO and the appeal is therefore dismissed.

Juliet Rogers BA (Hons) MA MRTPI

INSPECTOR