



Appeal Decision

Site visit made on 7 June 2023

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2023

Appeal Ref: APP/R3325/W/22/3308359

Orchard End Farm, Water Street, East Lambrook, South Petherton TA13 5HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Jonathan Male against the decision of South Somerset District Council.
 - The application Ref 22/01885/PAMB, dated 20 June 2022, was refused by notice dated 20 September 2022.
 - The development proposed is change of use and conversion of 1 agricultural building to 5 dwellinghouses under Class Q of Part 3 to Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Jonathan Male against Somerset Council. This application is the subject of a separate decision.

Background and Main Issue

3. The appeal relates to a barn at Orchard End Farm (hereafter the subject barn). Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) 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). Class Q(b) allows for the change of use together with building operations reasonably necessary to convert the building for that purpose.
4. The Council considers that the scope of work extends beyond that which could be defined as a conversion. Consequently, the main issue is whether or not the building operations involved in the development would be to an extent reasonably necessary to convert the building to a use falling within Class C3.

Reasons

5. Class Q.1.(i) states that schemes can include building operations including 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. Class Q.1.(ii) also allows partial demolition to the extent reasonably necessary to carry out these operations.
6. The Planning Practice Guidance (the PPG) affirms that internal works to buildings are not generally development. It now also states that for the building

- to function as a dwelling it may be appropriate to undertake internal structural works, including to allow for a floor, the insertion of a mezzanine or upper floors within the overall residential floor space permitted, or internal walls.
7. However, the overarching provision of Class Q is that the operations must be reasonably necessary to 'convert' the building. The PPG states that it is not the intention of Class Q to allow rebuilding that would go beyond what is reasonably necessary for the conversion of the building. It adds that Class Q assumes that the building is capable of functioning as a dwelling. 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. An assessment of this threshold issue must address the building operations in totality, including both internal and external elements in my opinion. It is well established by case law¹ (Hibbit) that, if the works go beyond what would amount to a 'conversion', then the scheme would fail at the very first hurdle. This is a matter of planning judgment without a defined or prescribed threshold.
 9. The subject barn is 7 bays long and portal framed. Its walls are partly clad in Yorkshire boarding which projects down from the eaves and offers very little of substance to the integrity of the building. Internally it is essentially open plan, the ground is little more than sloping compacted chalk above hardcore, and there are two large openings to the building envelope, at its entire southeast gable and the northeast side of its 5th bay. The barn also has concrete panels which extend around the lower part of the walls. These panels, together with the steel frame, would be capable of contributing to the proposed development.
 10. The internal works would be substantial, with comprehensive subdivision with numerous walls. Floor slabs would be required through the barn across different levels and a new ceiling would be provided throughout. Externally, entirely new walls would be added where there are none. The upper level of the walling, behind the superfluous Yorkshire boarding, would be infilled with essentially new outer walls, meaning there would be new wall sections across all four elevations of the barn. There would be numerous new openings which would cut into the concrete panels, reducing this element of the existing barn.
 11. Given the current chalk floor, new party walls would need to be supported through new foundations or a thickening of the proposed floor slabs, and the outer walls may require additional bracing to provide lateral strengthening to support the comprehensive addition of the windows and doors. This further reduces the role that the existing building would have in a structural sense.
 12. As would the possible replacement of the roof cladding. I cannot rule this out, because it has not been ascertained if or not it contains asbestos. If it does, and thus needs to be replaced, that would be another significant element of the existing building which would not survive to contribute to the already extensive scope of building operations. It is stated that the existing roofing could be replaced without the need for any form of approval from the Council, but this is not a compelling point, as I must assess the scope of the proposed works on the current evidence before me, including the existing situation on the ground.
 13. I accept that the works set out within Class Q can, in some cases, be extensive and that, taken in isolation, some of the individual elements of the appeal

¹ Hibbitt & Anor v Secretary of State for Communities & Local Government & Ors [2016] EWHC 2853 (Admin)

proposal would be considered acceptable. The appellant has also highlighted the high percentage of existing building fabric which could be retained.

14. Nonetheless, the extent of fabric which may be retained needs to be assessed not in isolation but as a likely proportion of the building operations taken as a whole. When this is done, I find that the nature and extent of the proposed building operations would be of such magnitude as to exceed the definition of a conversion and instead would qualify squarely as a rebuild (or fresh build), thereby falling beyond the scope of the GPDO.
15. The appellant has referred to a host of South Somerset District Council decisions in relation to Class Q schemes, and also some proposals under Class Q allowed on appeal across England. However, whilst there are certainly some similarities between the given examples and the proposal, the issues around Class Q are highly fact sensitive, turn on the totality of an often-diverse array of site-specific circumstances, and are the preserve of individual planning judgment.
16. In any event, whilst consistency is important in the planning process, I am not myself beholden to any of the referenced previous decisions of South Somerset District Council. The appeal allowed at North Newington/Banbury was allowed partly based on the retention of a concrete floor and only modest new openings. For the site near Wolverhampton, the inspector found the building benefitted from a concrete floor and did not need further strengthening in order to accommodate the works. The building near Taunton was fully enclosed, had a concrete floor, and the roof was to be retained.
17. As for the appeal decision at Blue Bell Farm, I note that the inspector at that site considered the existing Yorkshire boarding to be an integral part of the new scheme, whereas I have found that the Yorkshire boarding in this case would not. I also note from the supplied photographs that it contained a full height block wall, and a gable which was also enclosed in metal sheeting. As such, these decisions have had little weight in my assessment of the appeal proposal.

Other Matters

18. The Council further contends that the application of render to the existing concrete panels would extend the building, which is precluded by Class Q. However, I do not consider that the recladding of a building is analogous to its extension as the GPDO intends it. The concrete panelling in question is set back from the eaves and associated Yorkshire boarding, so the barn would not be enlarged by the rendering beyond its aerial footprint in any event.
19. I have read the other considerations put forward by the appellant, and also by interested parties in response to the planning application. However, they are not germane to my assessment, which must focus on the merits of the scheme strictly against the disputed requirements of the GPDO.

Conclusion

20. For the reasons given above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR