



Appeal Decision

Site visit made on 4 December 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2024

Appeal Ref: APP/D0121/W/23/3316482

Village Farm, Main Road, Cleeve, Nr Bristol BS49 4PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Richard Sibley against the decision of North Somerset Council.
 - The application Ref 22/P/1694/CQA, dated 24 June 2022 was refused by notice dated 27 October 2022.
 - The development proposed is Prior Approval to convert the Back Bar into 5no residential dwellings and the Front Barn into 5no garages, one for each dwelling with garden spaces between dwellings and garages, 'with operational development to replace the current roof sheets, repair the existing cladding and install new windows and doors'. Spaces left in both bays for bat roosts.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The above description of development is taken from the Council's Decision Notice in the interest of clarity and brevity.
3. The appellant has suggested consideration of alternative scheme for the conversion for only 1 barn. This would clearly materially amend the proposal. Therefore, were I to accept an alternative scheme then that may prejudice the interests of interested parties. Consequently, I have determined the appeal on the basis of the scheme considered by the Council.
4. Schedule 2, Part 3, Class Q of the 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 (dwellings) of the Schedule of the Use Classes Order 1987 (as amended), and the building operations reasonably necessary to convert the building subject to certain limitations and conditions.

Main Issues

5. The main issues are:
 - whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to the scale and form of development; and

- if so, whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to the building operations reasonably necessary to convert the building to residential use; and
- if so, whether prior approval would be required in accordance with the conditions set out in Paragraph Q.2 (1) of the GPDO; and
- if so, the impact of the development upon the North Somerset and Mendip Bats Special Area of Conservation.

Reasons

6. The proposal involves 2 separate existing barn structures. One would be used for 5 separate dwellings and the other (the 'front barn') would be used for garaging and access corridor to the dwellings. In between the two barns would be the garden area for each property.
7. Schedule 2, Part 3, Class Q of the GPDO sets out size and number of dwelling restrictions for new dwellings. It states at paragraph Q.3:

For the purposes of Class Q—

"larger dwellinghouse" means a dwellinghouse developed under Class Q which has a floor space of more than 100 square metres and no more than 465 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;

"smaller dwellinghouse" means a dwellinghouse developed under Class Q which has a floor space of no more than 100 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

8. Q.1 (b) sets out that development is not permitted under Class Q if: *in the case of—*
 - (i) *a larger dwellinghouse, within an established agricultural unit—*
 - (aa) *the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3 or*
 - (bb) *the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres.*
9. The appellant measures the dwellings as 65.6m², however, this does not include the garaging/access corridor in the front barn. Both barns are the same size, and therefore if the garage and corridor were to be included in the use class C3 floorspace calculations, this would give each property a floorspace comfortably exceeding 100sqm, resulting in 5 'larger dwellinghouses'. The proposal would conflict with the restrictions Q.1 (b) (i) (aa).
10. However, both parties agree that the barn used for garaging should not be included in the floor space calculations. In that case, if it is not C3 floorspace and it is not remaining agricultural, then it is unclear how it would fall under the provisions for Class Q.
11. Class Q does allow for 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*' (Q (a)).

12. However, the submitted drawing 'AV 243794/O.S. Plan Ref. ST4661' shows that the barn to be used for garaging falls outside the residential curtilage of the 5 dwellings. Moreover, paragraph X defines curtilage as:
- (a) *'the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or*
 - (b) *an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building.'*
13. Given that both buildings are the same size, the second barn could not benefit from the change to residential use permitted by Class Q by virtue of being in the curtilage.
14. The applicant refers to circumstances where 'floorplan limits in change of use Class Q application conversion criteria may be undefined in law for the provision of old barn non-dwelling space as is the provision of garaging', however this is not detailed nor substantiated, and as such, does not address the issues set out above.
15. Therefore, even if I were to accept the position that the front barn should not be included as C3 floorspace and there is therefore no conflict with floorspace limits, there is no provision under Class Q for its proposed conversion from agricultural to class C3 use.
16. I conclude that the proposal would not constitute permitted development in respect of Class Q of the Order with particular regard to the scale and form of development. As a result, there is no need to consider the other main issues.

Other Matters

17. Matters such as the potential cost and logic of the demolition of the front barn and the benefits to access and future users are raised, however as this is not a planning application, rather a prior approval, I am restricted to considerations of compliance with the GDPO.
18. I acknowledge that the Council's refusal notice did not raise the above main issue, however, both parties have had opportunity to comments on the matter and as such, natural justice has not been prejudiced.

Conclusion

19. For the above reasons, I conclude that the proposal is not permitted development within Schedule 2, Part 3, Class Q of the Order. The appeal is therefore dismissed.

B Phillips

INSPECTOR