



Appeal Decision

Site visit made on 14 December 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Appeal Ref: APP/Q3305/W/23/3322556

Norwood Farm, Bath Road, Norton St. Philip, Frome, Somerset BA2 7LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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.
- The appeal is made by Mr J Dawson of Dyson Farming Limited against the decision of Mendip District Council.
- The application Ref 2022/2191/PAA, dated 2 November 2022, was refused by notice dated 29 December 2022.
- The development proposed is change of use of barn to 4 dwellings.

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the change of use of barn to 4 dwellings at Norwood Farm, Bath Road, Norton St. Philip, Frome, Somerset BA2 7LP in accordance with the terms of the application, Ref 2022/2191/PAA, dated 2 November 2022, and the details submitted with it, including Drawing Nos 4024-001-Rev C-Site location plan, 4024-008-Rev E-Proposed site plan, 4024-010-Rev C -Proposed development plan, 4024-011-Rev C-Proposed dwelling types, 4024-015-Rev-B-Proposed elevations west and south, 4024-016-Rev B-Proposed elevations north and east, 4024-017-Rev D-Conversion diagram, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q. The approval is subject to conditions set out by Paragraph Q.2(3) of Schedule 2, Part 3, Class Q of the GPDO in that development must be completed within a period of 3 years from the date of this decision as well as the provisions specified in paragraph W.

Preliminary Matter

2. The main parties have set out the relevant planning history related to the site, which includes a previous appeal decision¹. The proposal was for the change of use of the same barn to 5 dwellings under the provisions of Schedule 2, Part 3, Class Q(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). It was allowed. However, it did not include any building operations for consideration. I have had regard to this appeal decision insofar as it is relevant to the development before me now.

Main Issue

3. The main issue in this appeal is whether the proposed change of use constitutes permitted development pursuant to Schedule 2, Part 3, Class Q of the GPDO, having regard to the extent of the building operations proposed.

¹ APP/Q3305/W/20/3259921

Reasons

4. Class Q of the GPDO permits development consisting of a 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) of the Use Classes Order and any building operations reasonably necessary to convert the building.
5. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It states that development 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 dwellinghouse; and partial demolition to the extent reasonably necessary to carry out building operations, as listed above.
6. The Planning Practice Guidance (the PPG) provides further clarification, including that 'it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use, such that 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'. The PPG also states that 'internal works are not generally development. 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, which are not prohibited by Class Q'.
7. Neither the GPDO nor the PPG defines 'reasonably necessary'. Consequently, it is a matter of planning judgement based on the fact and degree of an individual case. My attention has been drawn to the *Hibbitt*² caselaw, which considered whether the works required to bring about the change of use amounted to a re-build or 'fresh' build as opposed to a conversion. Notably, this case reinforces that it is a matter of planning judgement as to the level of works involved that would still constitute a conversion.
8. The agricultural building in question consists of a modern, 3 bay portal framed style structure, with concrete columns and timber/steel rafters and timber purlins/plan bracing. The building is open at either end. The side elevations have blockwork on the lower half, with timber boarding on the upper half. The roof is cement-board roofing. The building is predominantly open, with a small internal division at the north-western corner. The existing frame of the building is supported on pad foundations.
9. The submitted 'Structural Engineers Report'³ indicates that the existing structural form and the main load bearing elements of the building would be suitable for the proposed conversion. The existing pad foundations would not be altered. An insulated solid floor would be required to support the internal partitions and for building regulations in order to make the dwellings habitable. There would be no structural issues with the introduction of the new solid floor. The Council has not provided any compelling evidence to the contrary.

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

³ Prepared by E@M West Consulting Engineers, dated 27 September 2022.

10. Whilst the rooflights in the roof would be altered, the existing roof covering and structure would be retained, and below would be an insulated lining to improve the thermal performance of the building. An insulated timber frame cassette would be installed inside the existing structure and rainscreen. The open interior of the existing barn would also require subdivision to create the separate dwelling units and internal spaces within each dwelling.
11. It is unlikely that many existing agricultural buildings would be suitable for habitation as they stand without the introduction of insulation, dividing walls and heating to meet regulatory standards to make them suitable for human habitation. The existing barn is currently open at both ends so 2 new external walls with large, glazed panels would be installed in order for the building to function as a dwellinghouse. However, the installation of exterior walls falls under the scope of permitted development under Class Q. Furthermore, the elevational changes, including new doors and windows, would not go beyond those required for conversion, particularly given the extent of the original structure and rainscreen that would be retained. Additionally, the insulated timber frame would not amount to a 're-build' of the building.
12. Consequently, I am satisfied that, as a matter of planning judgement, the existing building would be capable of conversion and that the proposed building operations do not amount to a re-build, a 'fresh build', as they would not go beyond what could reasonably be considered to be a conversion. The works are considered as reasonably necessary for the building to function as a dwellinghouse, as outlined in criteria Q.1 (i)(i).
13. The Council has drawn my attention to another appeal decision in support of its case⁴. I have not been provided with the full details of this other decision. Consequently, I cannot draw any direct comparisons that would weigh in favour of or against the proposal. From the decision notice, it appears that this earlier proposal differs from the appeal proposal, as it involved the demolition of a 'large part' of the building whereas none of the building would be demolished under the proposal before me now. To my mind this only emphasises the need for the decision maker to exercise their individual planning judgement, based on the specific circumstances of the scheme before them.
14. Therefore, based on the evidence provided, I am satisfied that the proposal would constitute permitted development as set out under Schedule 2, Part 3, Class Q of the GPDO, having regard to the extent of the building operations proposed.

Other Matters

15. The conditions set out in paragraphs Q.2(1)(a) to (g) of Class Q relate to certain details of the proposed development, including transport and highways, noise, contamination, flooding, location or siting, design or external appearance, and the provision of adequate natural light in all habitable rooms. The Council raises no concerns in relation to the prior approval matters listed in paragraphs Q.2(1)(a) to (g). Given the above and based on the information before me and my observations on site, I have no reason to take a different view to the Council in respect of the above matters.

⁴ APP/Q3305/W/22/3299528

Conditions

16. The Council has not suggested any conditions. Any prior approval and planning permission granted for the development under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO is subject to the condition under Q.2 (3) which specifies that the development shall be completed within a period of 3 years starting with the prior approval date, as well as the provisions of paragraph W.
17. I have also listed the submitted plans in my decision and Paragraph W(12) of Schedule 2, Part 3 of the GPDO requires development to be carried out in accordance with the details submitted.

Conclusion

18. For the reasons given, I conclude that the appeal is allowed, and prior approval is granted.

Laura Cuthbert

INSPECTOR