



Appeal Decision

Site visit made on 7 May 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/R3325/W/23/3333833

Agricultural Barns at Higher Farm, Higher Farm Lane, Podimore BA22 8JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant prior 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 Hopkins Estates Ltd against the decision of Somerset Council.
 - The application Ref 23/01011/PAMB, was refused by notice dated 25 May 2023.
 - The development proposed is Prior Approval Application for the conversion of agricultural barns including associated works to facilitate 5 dwellings (C3 Use).
-

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 2015 GPDO) for Prior Approval Application for the conversion of agricultural barns including associated works to facilitate 5 dwellings (C3 Use) at Agricultural Barns at Higher Farm, Higher Farm Lane, Podimore BA22 8JQ in accordance with the details submitted pursuant to Schedule 2, Part 3, Class Q of the 2015 GPDO through application Ref 23/01011/PAMB, dated 25 May 2023. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2.(3) of the 2015 GPDO and subject to the additional conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Hopkins Estates Ltd against the decision of Somerset Council. This application is the subject of a separate Decision.

Preliminary Matter

3. I have taken the description of development as set out above from the application form as neither party has provided written confirmation that a revised description has been agreed. I have however removed reference to the General Permitted Development Order as this is not an act of proposed development.

Background and Main Issue

4. It is common ground that the appeal scheme meets the requirements of paragraph Q.1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) such that it would constitute development permitted under Class Q(a) and (b), subject to the prior approval

of certain matters. These prior approval matters include, under Q.2.(1)(e), whether the location or siting of the development make it undesirable for the use of the building to change, and under Q.2.(1)(f), the design and external appearance of the building.

5. The Notice of Decision states that the proposal does not accord with Q.2(1)(f). The associated Officer Report concludes that the location and siting of the buildings are not undesirable or impractical. However, the Council's Appeal Statement states that the Council maintains that it is not possible to be certain that the location or siting of the building is not undesirable therefore raising further conflict with Q.2.(1)(e).
6. In light of the above, the main issue is whether the location or siting, or design and external appearance of the buildings make it undesirable for the buildings to change to a dwellinghouse in terms of its effect on nearby heritage assets.

Reasons

7. The appeal site is located in a rural area and comprises two agricultural barns. The barns are associated with Higher Farm that also comprises the Grade II Listed Higher Farm House (List Entry Number 1346001) and a number of associated outbuildings.
8. The Council have refused prior approval due to insufficient information to enable it to establish beyond reasonable doubt whether the proposal would harm the setting of heritage assets. The Council dispute the appellant's evidence in the form of a Report on Curtilage Listing (Curtilage Report) that provides evidence in relation to whether the Stables, Dutch Barns and Sheds, Milking Parlours, Animal Stalls, Granary, Threshing Barns and Barn are curtilage listed. The appellant advises that the Curtilage Report was submitted to demonstrate that the appeal buildings are not listed.
9. There is no dispute between the main parties that the agricultural buildings forming part of the appeal are not listed buildings in their own right, or curtilage listed. I have no reason to disagree. S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the duty to, in considering whether to grant planning permission for development which affects a listed building or its setting, have regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The duty is not directly relevant for prior approval applications because planning permission is granted by Article 3(1) of the GPDO. However, the impact upon the setting of listed or curtilage listed buildings does need to be taken into account.
10. Given the lack of information with regard to uses at the time of the listing and precise dates of construction, the Curtilage Report does not provide definitive conclusions with regard to whether all of the other buildings around the appeal site and the listed farmhouse are curtilage listed. Furthermore, I note that the Council do not agree with the findings and require more information to make their own determination. As a result, I do not have sufficient evidence before me to determine whether each of the other buildings around the appeal site and the listed farmhouse are curtilage listed.
11. If I were to have sufficient evidence and find that the relevant buildings are curtilage listed, I saw that their significance and special interest is derived from

their agrarian architecture and their relationship to the historic farmhouse together with their location and historic use giving understanding to the farmhouse and the wider farm complex. The appeal site would fall within their setting by virtue of its visual and physical relationship and historic agricultural use forming part of the wider historic farm complex. However, by reason of the appeal buildings detached modern designs, dilapidated appearance and separation from the listed farmhouse and the other buildings that are more directly associated with each other and the listed farmhouse, the appeal buildings would only make a very small contribution to the significance of the curtilage listed buildings by virtue of being part of the wider farm complex.

12. The main parties agree that the limited external changes to the elevations of the barns, that mainly comprise doors and windows and retention of existing materials, would not harmfully alter the existing form or external appearance of the buildings. I have no reason to disagree and find that the limited changes to the barns would largely retain their agricultural character and appearance. In light of this, and as Condition Q.2.(1)(f) to Class Q limits the consideration to the design and external appearance of the building only, there would be no harm from the design or external appearance of the appeal buildings on the setting of the other buildings should they be curtilage listed.
13. On the basis that Condition Q.2.(1)(e) allows a consideration of the effect from the external areas on the setting of curtilage listed buildings, the proposed external areas are very limited in size and predominately located away from the other farm buildings. I acknowledge that these proposed external areas comprise access and parking for cars, but the areas around the buildings currently form part of a hard surfaced agricultural yard where the parking and movement of vehicles would historically have taken place.
14. While I further acknowledge that these external areas could comprise domestic paraphernalia such as sheds, washing lines and landscaping, there is very limited space available for such paraphernalia. Given this and given the current functional and dilapidated appearance of the appeal buildings and associated land, I do not find that the limited introduction of such features would appear visually obtrusive or be harmful to the setting of the other buildings, should they be curtilage listed. Furthermore, a condition can be imposed on any grant of prior approval to control the means of enclosure to ensure that they have an appropriate appearance. As such, their setting or significance would not be harmed.
15. In light of the above, even if the existing farm buildings were curtilage listed, I do not find that the location or siting, or design and external appearance of the buildings make it undesirable for the buildings to change to a dwellinghouse in terms of its effect on nearby heritage assets. As a result, if the buildings are curtilage listed, the proposal would preserve their setting.

Other Matters

16. No concerns have been raised with regard to the other subject matters under Condition Q.2.(1) in relation to transport and highways, noise impacts, contamination risks, flooding risks or the provision of adequate natural light to all habitable rooms. I have no reason to disagree.

Conditions

17. Paragraph O.2.(2) of the GPDO attaches a condition to this type of development, requiring its completion within a period of 3 years, starting from the prior approval date. A condition relating to the commencement of development is therefore not necessary.
18. Paragraph W.(12) of the GPDO also requires that the development must be carried out in accordance with the details provided in the application. Conditions relating to the plans and the provision of materials as detailed on the plans are not therefore necessary.
19. Paragraph W.(13) of the GPDO enables additional conditions to be attached to grants of prior approval and I have had regard to the conditions suggested by the Council.
20. Conditions requiring the provision of car and cycle parking and electric charging points prior to first use of the dwellings are necessary in the interests of highway safety and minimising pollution from transport associated with the development.
21. The removal of permitted development rights to erect enclosures is required to ensure that the visual appearance of the development is not compromised.
22. A condition relating to unexpected contamination is necessary to ensure that there is no risk to the future occupiers of the proposed dwellings in this respect.
23. There is little evidence before me to suggest that the conversion of the building would cause concern regarding flood risk or drainage and therefore a condition relating to the drainage of the site is not necessary or reasonable.
24. The Council have also suggested a condition to control construction activities, but I do not find this reasonable or necessary for such a small development in a remote area and adjoining a sizable open yard which could be utilised for the parking of vehicles and storage of materials during building works.
25. The Council have additionally suggested a condition related to lighting to prevent harm to bats. However, as this is not directly related to the subject matter of this prior approval, I see no justification of its imposition in terms of the tests set out in Paragraph 56 of the National Planning Policy Framework.

Conclusion

26. As the proposal meets the requirements for prior approval and is permitted development under Schedule 2, Part 3, Class Q of the GPDO, I therefore conclude that the appeal should succeed, and prior approval is granted.

C Rose

INSPECTOR

*****SCHEDULE OF CONDITIONS*****

- 1) The development hereby permitted shall not be occupied until the relevant number of parking spaces for the dwellings hereby approved, and a properly consolidated and surfaced turning space for vehicles have been provided and constructed within the site in accordance with the approved details. Such parking and turning spaces shall be kept clear of obstruction in perpetuity and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.
- 2) The dwellings hereby permitted shall not be occupied until cycle parking has been provided (at a rate of one space per bedroom), in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.
- 3) The dwellings hereby permitted shall not be occupied until an electric vehicle charging point (EVCP) rated at a minimum of 16 amps has been provided for the dwelling within its associated parking area. The electric vehicle charging points must be maintained, kept free from obstruction and available for the purposes specified in perpetuity.
- 4) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking, re-enacting or modifying that Order), no gates, fences, walls or other means of enclosure shall be erected on any part of the application site, its boundaries or bounding the parking and turning areas and access thereto without the prior written approval of the Local Planning Authority. Prior to the erection of any such gates, fences, walls or other means of enclosure, details of the heights, materials, (colour) finishes, design and appearance of said gates, fencing, walls or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. Such approved details shall be strictly adhered to and thereafter so retained and maintained.
- 5) During the course of development, should any contamination be found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.

*****END OF SCHEDULE*****