



Appeal Decision

Site visit made on 8 February 2024

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/Y3940/W/23/3322291

Plymouth, Stock Lane, Landford, Wiltshire SP5 2EW

- 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 (as amended).
 - The appeal is made by Mr Ian Browning against the decision of Wiltshire Council.
 - The application Ref PL/2022/08912, dated 16 November 2022, was refused by notice dated 28 February 2023.
 - The development proposed is the change of use of agricultural buildings to five dwellinghouses (Use Class C3), and for building operations reasonably necessary for the conversion.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 GPDO), planning permission is granted for development consisting of the change of use of an agricultural building and its curtilage to dwellinghouses and the building operations reasonably necessary to convert the building. This is subject to limitations and conditions.
3. Paragraph Q.1. of the GPDO sets out circumstances where such development is not permitted. These limitations include at paragraph Q.1. (i), that development is not permitted if building operations reasonably necessary to convert the building consist of anything other than (i) the installation or replacement of (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and at Q.1. (i)(ii) partial demolition to the extent reasonably necessary to carry out those building operations.
4. It is not a matter of dispute between the main parties that the works to create Units 2, 3, 4 and 5 would comply with those limitations. However, the Council consider that demolition of parts of what is identified on the drawings as Building A would exceed that permitted by Paragraph Q.1. (i)(ii). This was set out in the Council's officer report. However, the Council nevertheless went on to refuse prior approval and made no further reference to their view that the development would not be permitted development in their decision notice. I

can therefore appreciate the appellant's frustration at this matter resurfacing at the appeal stage.

5. Nevertheless, I am required¹ to determine whether the development would be Permitted Development before, if it is Permitted Development, considering the merits of whether prior approval should have been granted or not.

Main Issues

6. Consequently, the main issues raised by this appeal are: whether or not the development would be Permitted Development with particular regard to whether or not the extent of demolition proposed to create proposed Residential Unit 1 would consist of partial demolition to the extent reasonably necessary to carry out the proposed building operations as set out in the GPDO; and, if it would be Permitted Development, the transport and highways impacts of the development.

Reasons

7. The limitations imposed by Paragraph Q.1. also effectively limits floorspace of smaller dwellinghouses to not exceed 100m². The drawings show two proposed units of 87m² and two of 90m², along with Unit 1 being 100m².
8. Building A, within which Unit 1 would be created, has a floorspace considerably larger than 100m². It is a 'U' shaped building with some additions. This is indicated on the drawings as a single building. The proposal would remove the return of the building linking the two longer linear components to create two separate buildings, one of which would become Unit 1. A lean-to part of the building to the rear of Unit 1 and an off-set part of the building at its west end would also be demolished. The removal of these elements would leave the remaining floorspace of the resulting conversion at 100m².
9. It is clear from the application form that the intent behind this proposed demolition was to achieve a compliant maximum area of one of the dwellings as it states that "*some parts of the buildings are to be demolished to ensure that the floorspace limits are not exceeded*". The application form and supporting documents do not identify that the demolition would be necessary to physically convert the building to a dwelling.
10. The removal of those parts of the building would not appear to be technically necessary to alter, install or replace what would become the exterior walls at either end and part of the rear of Unit 1, nor the windows proposed in those elements. To do this would of course be undesirable and most unlikely, effectively leaving windows facing the interior of unconverted parts of a building. Nevertheless, the demolition would not be reasonably necessary for the building to function as a dwelling house.
11. The demolition is shown on the drawings and there is nothing to indicate that it would be a separate operation. Unlike the other four units whose floorspace would be dictated by that of the buildings to be converted (each less than the 100m² maximum), Unit 1 would fit the threshold exactly and this would be achieved by limiting the extent of the building to be converted and removing the remainder.

¹ Including in light of the findings in *New World Payphones Ltd v Westminster City Council* [2019] EWCA Civ 2250.

12. These circumstances do not demonstrate the demolition being necessary for the building to function as a dwelling. The limits in GDPO paragraph Q.1. are clearly set out in terms of what is not permitted with specific exceptions. Demolition to reduce a building to a floorspace to comply with one of the other limitations is not one of those exceptions.
13. In support of his position the appellant has referred me to a number of appeal decisions. In the Witheridge appeal decision² the Inspector notes that in that case, unlike this, there was no dispute between the parties that the development was Permitted Development. Although there is reference to partial demolition, this was referred to as an adjoining barn rather than part of the building to be converted and in any event the Inspector made no conclusions about whether or not that demolition was Permitted Development, focusing rather on the effects of the resulting separation between buildings on other matters under consideration.
14. In the Nailsbourn appeal decision³ the Inspector found that the demolition of a store was reasonably necessary to convert that building, but also notes that the store was underneath a part of the glasshouse to be converted and therefore presumably an internal structure and part of its floorspace in any event. This is a materially different situation to this appeal. In the Dronfield appeal decision⁴ the Inspector does not elaborate on what and how much of that building was to be demolished, but considers at length whether other building operations would be Permitted Development. Again this is different to the Plymouth proposal.
15. Therefore, each of those appeal decisions dealt with materially different circumstances to this appeal and none provide a convincing reason to suggest that in this case the proposed demolition would be within that permitted by the Permitted Development right.
16. I have dealt with the situation as described in the application and shown on the drawings. It is not a matter for me to speculate on whether the situation may be different should circumstances be altered.
17. Therefore, considering all the evidence before me, it has not been convincingly demonstrated that the demolition proposed to create Unit 1 would constitute partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(ii) of the GPDO. Consequently, the development would not be permitted as set out in Paragraph Q.1.
18. As the development would not be Permitted Development it is not appropriate or necessary for me to consider the transport and highways impact of the development.

Conclusion

19. For the above reasons, the development would not be Permitted Development and the appeal is therefore dismissed.

Geoff Underwood

INSPECTOR

² APP/Y1138/W/20/3252641.

³ APP/W3330/W/21/3268761.

⁴ APP/R1038/W/18/3200789.