



Appeal Decision

Site visit made on 11 June 2024

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2024

Appeal Ref: APP/E3335/W/23/3322473

Grain Store, Burton Pynsent, Curry Rivel, Somerset, TA10 0PE

- 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 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 Dr T Schroder of the B L Schroder C Settlement Trust against the decision of South Somerset District Council.
 - The application Ref is 23/00308/PAMB.
 - The development proposed is the change of use of the grain store to create 5 dwellings and associated operational development.
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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) for the change of use of the grain store to create 5 dwellings and associated operational development at Grain Store, Burton Pynsent, Curry Rivel, Somerset TA10 0PE in accordance with the application 23/00308/PAMB and the details submitted with it including drawing numbers PL4270/1C (Location Plan), PL4270/3B (Proposed Block Plan), PL4270/5A (Proposed Floor Plans) and PL4270/6B (Proposed Elevations and Section), and subject to the following condition:
 - 1) The change of use of the building to residential use shall not commence until the structures outlined in a red dashed line shown on drawing PL4270/3B (Proposed Block Plan) have been demolished and removed.

Preliminary Matters

2. On 1 April 2023, South Somerset District Council (SSDC) ceased, and the administrative area became part of Somerset Council. Nevertheless, the application was submitted to SSDC and it was the local planning authority (LPA) that issued the decision. Hence, I have referred to SSDC in my heading above.
3. Following the submission of the appeal, amendments¹ were made to Class Q of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)(the Order) which came into force on 21 May 2024. In summary they extended the permitted development rights in certain respects with regards to the change of use of agricultural buildings to

¹ Statutory Instrument 2024 No.579

dwellinghouses. The main parties have had the opportunity to comment on those amendments.

4. Amongst the amendments made to Class Q was one to replace separate floor space limits on larger and smaller dwellinghouses with a single floor space limit applying to all dwellinghouses. Whilst there is no dispute that the proposals met the previous floor space limits, proposed unit 5² would exceed the new single floor space limit of 150m². In these circumstances, transitional provisions in The Town and Country Planning (General Permitted Development etc.)(England) (amendment) Order 2024 apply. Article 10(2) of that Order allows an application (and by extension an appeal) to be made in relation to previously permitted development under Class Q until the end of 20 May 2025 whereby the recent amendments do not apply. I have made my determination on that basis.
5. The Council's decision notice contains 3 reasons for refusal. However, the Council confirm in their appeal statement that having assessed the appeal submissions, sufficient information has been provided to address their concerns such that reasons 2 and 3 no longer apply³. Hence, these refusal reasons fall away, and this has informed the framing of the main issue in dispute.

Main Issue

6. Class Q of Part 3 of the Order establishes that a change of use of a building and any land within its curtilage from a use as an agricultural building to a dwellinghouse, together with building operations reasonably necessary to convert the building is permitted development subject to certain restrictions, limitations and conditions. Applying the transitional provisions outlined above, the Council accepts that the proposal would be within the limitations imposed by paragraph Q.1, Part 3 of the Order, and I have little basis to find otherwise.
7. However, paragraph Q.2(1) of Part 3 of the Order requires an application to be made as to whether the prior approval of the local planning authority will be required in relation to specific listed matters. These are the only subjects for consideration in the prior approval. There is no dispute between the parties as to the acceptability of the proposal in relation to the matters listed in Q.2(1) save for criteria (e) and (f).
8. Therefore, the main issue is whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to 5 dwellinghouses, and linked to that, what the effect of the design or external appearance of the building would be having regard to the significance of the Grade II* listed building, Burton Pynsent House (the listed building) and the Grade II listed Burton Pynsent Registered Park and Garden (RPG).

Reasons

9. The Council's principal concern is that the proposed dwellings would be undesirable owing to their effect on two designated heritage assets, namely the listed building and RPG. The appeal site is within the RPG and lies approximately 90m southwest of the listed building.

² Table of floor space measurements, paragraph 3.1, Appellant's Appeal Statement

³ Paragraph 4.1, Council's Statement

10. Planning Practice Guidance (PPG)⁴ confirms that 'impractical or undesirable' are not defined in the Order, and therefore, a reasonable ordinary dictionary meaning applies in making any judgment. The term undesirable reflects that the location or siting would be "harmful or objectionable". It goes on to give some examples of where such a judgement might be necessary but there is no explicit mention of designated heritage assets. Furthermore, the statutory general duty⁵ that is relevant to planning applications that affect listed buildings is not engaged when considering proposals for prior approval.
11. Even so, the question of whether the location or siting of the development would be harmful or objectionable is a broad one, sufficiently wide to encompass consideration of the special qualities and settings of designated heritage assets. Moreover, this would also be relevant when assessing the suitability of the design or external appearance of the resulting building.
12. Nevertheless, in this respect the Council's arguments lack coherence. They state that there is insufficient information provided to assess the level of harm to the significance of the listed building and RPG yet do conclude that the proposal would lead to a level of harm to both with certainty. Reference⁶ is made to the balances relating to designated heritage assets set out in the National Planning Policy Framework (the Framework) that might justify substantially harmful development (paragraph 207), and less than substantially harmful development (paragraph 208). The Council contend that neither would be satisfied.
13. Limited articulation of the harm identified by the Council is provided, but refusal reason one on the decision notice refers to the introduction of a residential form of development and its nature and design at the location as being harmful to the character and appearance of the RPG and setting of the listed building.
14. Turning first to the matter of sufficiency of information, the appellant did not provide a heritage statement with the application. Paragraph W(3)(b) of Part 3 of the Order states that a local planning authority may refuse an application where the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any applicable conditions, limitations or restrictions. Paragraph W(10)(b) requires the decision-maker to have regard to the Framework so far as relevant to the subject matter of the prior approval, as if the application were a planning application.
15. Where proposals affect heritage assets, paragraph 200 of the Framework refers to the level of detail to be provided in relation to significance being no more than is sufficient to understand the potential impact of the proposal on their significance. In assessing what level of information would be appropriate in this instance, I am mindful that PPG⁷ further advises that the statutory requirements relating to prior approval are deliberately much less prescriptive than those relating to planning applications, as it is intended to be a light-touch process.

⁴ Paragraph: 109 Reference ID: 13-109-20150305

⁵ Section 66, Planning (Listed Buildings and Conservation Areas) Act 1990

⁶ Paragraphs 2.4-2.5 Council's Statement

⁷ Paragraph: 028 Reference ID: 13-028-20140306

16. It is not shown that a heritage statement is a mandatory requirement of the prior approval process. Moreover, an assessment that refers to the designated heritage assets forms part of the appellants' appeal statement. Combined with the respective statutory list entries, and my own observations, I am satisfied that there is an adequate basis to deduce the significance of the listed building and RPG, and the potential impact on their significance arising from the proposals.
17. The Grade II* listed building is what remains of a larger house. It was built as a wing in about 1756 to provide a country house for William Pitt. It comprises a two storey plus attic substantial house, built in brick with Ham stone dressings and tile roof. Classical detailing is found in the fenestration, parapets, cornices, and central pediment. Part of its significance lies in its architectural interest as an example of an 18th century classical-style country house, and its embodied historic fabric. Further historic significance is derived from the close association with Prime Minister William Pitt and the manner in which he inherited the property from William Pynsent. The house was deliberately designed to be the focus of the RPG and its principal elevation faces east towards the garden. Hence, its interrelationship with the landscape features of the pleasure grounds and parkland are an important component of the listed building's setting, which in turn adds to its significance.
18. The RPG extends to approximately 98 hectares, comprising 1 hectare of formal gardens and pleasure grounds close to the house, and 97 hectares of park and ornamental plantation. It primarily reflects a mid-18th century parkland landscape laid out by Lancelot Brown and William Pitt, but also has early 20th century formal gardens designed by Harold Peto. Its significance partly derives from its aesthetic value owing to the surviving 18th century layout and landscape features including the Pynsent column. The grounds were designed as a setting for the listed building, to provide it with vistas, as well as far reaching views to the wider countryside. Historical value comes from the association with William Pitt, and renowned landscape architect Lancelot Brown. The significance of the RPG is further enriched by the association with the garden designer, Harold Peto who was influenced by the arts and crafts movement. This is evident in the home farm and kitchen garden arrangement that lies close to the appeal building.
19. The appeal building is a large, modern agricultural steel framed building. Clad in concrete panels and profiled sheeting, it has a utilitarian appearance. It is grouped with a collection of other modern functional buildings on and around an expansive concrete yard.
20. Given its modern construction and materials, there is nothing before me to suggest that the building possesses any historical value or fabric. It was not a deliberate part of the historic garden or parkland design, and its use and appearance are synonymous with the requirements of modern farming methods. My observations were that its uncompromising scale, massing and functional appearance are unsympathetic to the classical style of the main house. Furthermore, by comparison, it is considerably larger and higher than the domestic scale of the early 20th century courtyard structures and estate cottages to the north. As such, the group of modern agricultural buildings and concrete hardstanding dominate this part of the RPG. The probable associated activity, including grain drying and agricultural vehicle movements would also be likely to distract from the important qualities of the listed building and RPG.

21. As such, the appeal building is a jarring visual element in the RPG close to the kitchen garden, and in turn detracts from the setting of the listed building. However, in relation to the listed building the adverse impact on its setting is mitigated to an extent by the separation distance, intervening walling and the softening effect of vegetation. Nevertheless, owing to its incongruous scale and design, the appeal building has a negative effect on the significance of both the designated heritage assets.
22. The proposals would make alterations to the agricultural building to provide 5 dwellings. Although the overall scale and form would remain broadly similar, the alterations would avoid any direct effect on the historic fabric or landscape features important to the listed building or RPG.
23. Changes proposed to the external elevations include increased and regular fenestration, alterations to facing materials, and the creation of internal curtilage areas involving roof cut aways and two void passage areas flanking proposed unit 3. These alterations would be apparent in the RPG and would be within the setting of the listed building. However, the measures would provide increased articulation to the building, which would assist in breaking up its massing.
24. Moreover, the appellant proposes to remove several nearby modern agricultural structures close to the appeal building, which are shown by a red dashed line on drawing number PL4270/3B. This would reduce the overall volume of incongruous built form within the RPG and close to the kitchen garden and estate cottages. Consequently, it would go some way to redress the stark contrast in the scale of the respective buildings.
25. In addition, the amount of activity, lighting, noise and vehicular movements associated with the residential use of the building would be likely to be no greater than the established agricultural activity.
26. In combination, the change to residential use, physical alterations and removal of structures would mean the appeal building would be marginally more sympathetic to the domestic scale and use of the adjacent arts and crafts estate cottages and buildings. Hence, it would be better assimilated into the character and appearance of the RPG and less distracting within the setting of the listed building.
27. Overall, I consider such measures would lead to a small reduction in harm to the significance of the designated heritage assets, and so would not of themselves be harmful, rather they weigh in favour of the development. In these circumstances it becomes unnecessary to carry out the balancing exercise against public benefits outlined in paragraph 207, or alternatively 208 of the Framework.
28. Therefore, I find that the design and external appearance of the building would not be objectionable but rather would have a benign effect on the significance of the listed building and RPG. Consequently, the location and siting of the proposals would not be undesirable on that basis. It follows that there is no justified reason to prevent prior approval on the grounds of Q.2(1)(e) or (f) of Part 3 of the Order.

Other Matters

29. Paragraph X of Part 3 of the Order provides a definition of 'curtilage' for its purposes. There is no dispute that the red line shown on drawing number PL4270/1C meets the limitations set by the Order, and this is the area to which the permitted development would apply. The Council point out that this does not include the car parking spaces denoted on the proposed block plan, which are shown on the concrete yard area to the south. However, they do not suggest that this would be problematic, and no refusal reason in relation to the transport and highways impacts of the development was included as part of their decision.
30. As the parking area on the yard is not within the red line denoting the curtilage, it would remain in its previous use and therefore, this raises some uncertainty as to whether it would be lawfully available to be used for domestic parking. Nevertheless, the floorplans show that each dwelling unit would have an area of open curtilage that falls within the red lined curtilage, and which would be sufficient to provide some parking. Based on the information provided in this respect, and absence of evidence to show otherwise, I am reasonably satisfied that the proposal would not result in unacceptable transport or highway harm.
31. Curry Rivel Parish Council support the proposal but request that a footpath be provided, and that priority is given to local purchasers in relation to the dwellings created. As outlined above, the scope of a prior approval application is limited to specific matters, and controls over the occupation or purchase of future dwellings lie outside the remit of my determination. No objections have been raised by the Highway Authority in relation to the access arrangements for the dwellings. Therefore, there is little substantive evidence that a footpath would be a pre-requisite to make the proposed dwellings acceptable in this respect. Whilst there is nothing to prevent the parish council pursuing their suggestions for footpath improvements as a separate matter, they would not lead me to find otherwise on the matters under consideration.

Conditions

32. Class Q.2 of Part 3 of the Order imposes a condition that development under Class Q must be completed within a period of 3 years starting with the prior approval date. Hence, there is no need to impose or duplicate a condition relating to time periods for the development.
33. In coming to my findings, I gave favourable weight to the appellant's intention to remove existing structures, as denoted on drawing number PL4270/3B. This was a matter that directly related to the prior approval matters under consideration. It is therefore reasonable and necessary to impose a negatively worded condition to ensure that the structures are removed prior to the change to residential use.

Conclusion

34. For the reasons given above the appeal should be allowed and prior approval should be granted.

Helen O'Connor INSPECTOR