



Appeal Decision

Site visit made on 3 July 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2024

Appeal Ref: APP/F0114/W/24/3338643

Halfway Farm, Stanton Road, Stanton Drew, Bristol BS39 4ET

- 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 Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
- The appeal is made by Mr & Mrs Rupert Gibson against the decision of Bath & North East Somerset Council.
- The application Ref is 23/03347/ADCOU.
- The development proposed is prior approval request for change of use from Agricultural Building to 1no. Dwelling (Use Class C3).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The GPDO was amended on 21 May 2024¹. However, the amendments to Class Q of Part 3 of Schedule 2 of the GPDO are subject to transitional arrangements. These include that any application or appeal made before 21 May 2024 should be determined on the basis of the previously permitted development under Class Q. This appeal has therefore been determined on the basis of the GPDO as it was at 1 August 2020.
3. The Council have referred to development plan policies. In this regard, prior approval appeals are not determined on the basis of section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended). However, I have taken the development plan policies into account insofar as they are relevant to the prior approval matters under consideration.
4. In line with paragraph W.(10)(b) of Part 3 of Schedule 2 of the GPDO, I have had regard to the National Planning Policy Framework (the Framework) so far as relevant to the subject matters of the prior approval.

Background and Main Issues

5. Under Class Q of Part 3 of Schedule 2 of the GPDO, planning permission is granted for agricultural buildings to dwellinghouses, subject to limitations and conditions. The Council however refused the prior approval application, making reference to paragraph Q.2(1)(a) of Class Q, and to protected species. Therefore, the main issues are:

¹ Via the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024.

- whether prior approval should be granted under Class Q of Part 3 of Schedule 2 of the GPDO, in relation to the transport and highways impacts of the proposed development; and
- the effect of the proposed development on protected species.

Reasons

Transport and highways

6. The appeal site comprises a disused farm complex located adjacent to the B3130. The B3130 is a single carriageway road. Since the issuing of Traffic Regulation Order 22-012 earlier this year, it is subject to a 40mph speed limit. It does not benefit from a footway, or street lighting, or a dedicated cycle lane in the vicinity of the site. The B3130 is narrow in parts, with limited passing places, and has some tight bends. The Council have stated that the B3130 has several records of injury accidents in the past 5 years in the near vicinity of the site, and this has not been disputed by the appellants.
7. Although in theory agricultural activities on site could be resumed, it has not been shown that this would be a likely prospect in the foreseeable future. As the site is not currently in use, the proposed development would result in an increase in pedestrian and vehicle movements over-and-above this existing situation.
8. I observed on my site visit that attempting to walk to and from the nearest bus stop, to the east of the site, would involve a treacherous walk along a busy road with fast-moving traffic, with few opportunities to avoid traffic, especially at the point where the road has a slight bend just past Halfway Farm. Equally, the walk to the site along the B3130 from the west involves walking on narrow grass verges, in close proximity to traffic. The dangers of walking or cycling along these routes would be heightened at night-time, due to the lack of street lighting referred to above.
9. As such, the proposed development would increase the risk of accidents between vulnerable road users (including pedestrians and cyclists), and vehicles. As the site cannot be safely accessed by non-vehicular highway users, the proposed development would have an unacceptable impact on highway safety.
10. I note that with respect to prior approval application Refs 21/01881/ADCOU and 21/03488/ADCOU, the highways authority raised no objections, subject to conditions. Based on the summary of the highways consultation responses provided in the relevant Officer's Reports, and the copy of the consultation response for application Ref 21/01881/ADCOU, it appears that pedestrian safety was not considered in detail. Why this was the case is unclear, especially considering that the Council refused the present prior approval application on transport and highways grounds.
11. Nevertheless, I am not bound to fall in line with any previous decision of the Council. The lack of objection from the highways authority in those applications does not alter the clear adverse impacts arising from the proposed development identified above. Moreover, those applications were refused on the basis that the proposed developments would not be permitted development, meaning that it was not necessary for the Council to make any

determination on the prior approval subject matters relevant to Class Q. This is not a matter which alters my findings on this main issue.

12. I therefore find that the proposed development would have an unacceptable transport and highways impact. It would not comply with paragraph Q.2(1)(a) of Class Q of Part 3 of Schedule 2 of the GPDO.
13. Whilst not determinative, and only to the extent that they are relevant considerations within the terms of the GPDO, the proposed development would conflict with part 1) a) of Policy ST7 of the Local Plan Partial Update² (Local Plan) which provides that, amongst other things, development will be permitted providing that highway safety is not prejudiced, and with paragraph 115 of the Framework which provides that, amongst other things, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Protected species

14. Regulation 9(1) of the Conservation of Habitats and Species Regulations 2017 (as amended) provides that, amongst other things, a competent authority must exercise their functions which are relevant to nature conservation, so as to secure compliance with the requirements of the Directives.
15. In this regard, the submitted Bat Survey Report states that it is prudent to assume that the agricultural building supports a bat roost, and that bats, if present, are likely to be roosting between the asbestos sheets. As such, the proposed development would be likely to result in damage to this roost and potentially harm any bats present therein. It follows that, without effective avoidance or mitigation measures in place, the proposed development would be likely have an adverse effect on protected species.
16. Measures to avoid harm to bats have been proposed, including a Registered Consultant/Accredited Agent to carry out pre-works checks of the interior of the barn, with any bats found during checks/works being relocated to a bat box. As the building would be converted rather than demolished, on a balance of probabilities I consider that the proposed measures would be effective in avoiding harm to any bats present within the building.
17. The site is located approximately 130 metres to the north of the River Chew Site of Nature Conservation Interest (SNCI), which is designated for the river and associated marginal habitats, as well as certain protected species. The Council have stated that it has been noted from previous applications relating to the site that drainage infrastructure which impacts on/discharges into the River corridor is likely to be required, and this has not been disputed by the appellants.
18. In this regard, few details have been provided to demonstrate what the effect of the surface water run off from the proposed development would be on the SNCI. This is contrary to the Planning Practice Guidance, which states that where water quality has the potential to be a significant planning concern an applicant should be able to explain how the proposed development would affect a relevant water body in a designated site of importance for biodiversity,

² Bath and North East Somerset Local Plan: Core Strategy and Placemaking Plan incorporating the Local Plan Partial Update - Volume 1: District-wide Strategy and Policies (adopted 2023)

and how they propose to mitigate the impacts³. It has not therefore been shown that harm to the SNCI, which contains protected species, would be avoided.

19. I therefore find that it has not been demonstrated that the proposed development would not have a harmful effect on protected species. Whilst not determinative, and only to the extent that they are relevant considerations within the terms of the GPDO, the proposed development would conflict with part 3 a) of Policy NE3 of the Local Plan which provides that, amongst other things, development that would adversely affect, directly or indirectly, habitats or features of biodiversity/geodiversity importance or value will only be permitted for Sites of Nature Conservation Importance where impacts have been minimised.

Other Matters

20. The conduct of the Council during the processing of the planning application, including whether or not the Council met its legal duties with regards to internal consultations on highways matters, is not a matter that I can assess in the context of a planning appeal.
21. Prior approval application Refs 21/01881/ADCOU and 21/03488/ADCOU were refused by the Council on the grounds that the proposed developments did not constitute permitted development. As such, it was not necessary for the Council to consider the prior approval subject matters, whereas in this case they fall to be considered. Whether or not the Council acted in error in terms of considering building operations for those applications lies outside of my remit in determining this appeal. For these reasons, those applications do not change my findings on the main issues in this appeal.
22. I have carefully considered all of the matters raised by Stanton Drew Parish Council. Under the prior approval procedure deliberations are confined to the relevant subject matter(s), as defined in the relevant class found in the GPDO. As such, considerations relating to the principle of development on site, site security, sustainable transport, and the impact on the Green Belt, all fall outside of the matters under consideration in this appeal. Similarly, with regards to the various purported benefits of the proposed development (including its effect on the character and appearance of the area and on the wider landscape), the GPDO offers no discretion where conflict is found with its requirements. As such, none of these matters change my findings on the main issues in this appeal.
23. Reference has been made to the potential for a new pedestrian footway to be installed alongside the highway in the vicinity of the site. However, such a scheme does not form part of the proposed development. Additionally, paragraph W.(13) of Part 3 of Schedule 2 of the GPDO provides that conditions may be imposed which are reasonably related to the subject matter of the prior approval, and in this case such infrastructure works would relate to the intrinsic nature of the B3130 rather than being reasonably related to the transport and highways impacts of the proposed development itself. Therefore, it would not be appropriate to impose a planning condition relating to this matter.

³ Paragraph 34-016-20140306

Conclusion

24. As the proposed development would not comply with the relevant requirements of the GPDO, prior approval cannot be given for the proposed development. Therefore, for the reasons given above, having considered all relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR