



Appeal Decisions

Site visit made on 11 November 2024

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2024

Appeal A Ref: APP/D0121/W/24/3345638

Kingcott Farm, Beggar Bush Lane, Abbots Leigh BS8 3TF

- 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 GPDO)
 - The appeal is made by Mr John and Robert Atherton against the decision of North Somerset Council.
 - The application Ref is 24/P/0213/CQA.
 - The development proposed is the change of use of Barn B into 1no. dwelling and Barn C into 4no. dwellings, with operational development including enclosing the open sides of the barn with brickwork and cladding and adding new openings to create windows and doors.
-

Appeal B Ref: APP/D0121/W/24/3345649

Kingcott Farm, Beggar Bush Lane, Abbots Leigh BS8 3TF

- 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 R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr John and Robert Atherton against the decision of North Somerset Council.
 - The application Ref is 24/P/0111/CRA.
 - The development proposed is the change of use of 1no. existing barn into office accommodation (Class E).
-

Decision

1. The appeals are dismissed.

Applications for costs

2. An application for costs was made by Mr John and Robert Atherton against North Somerset Council. A further application for costs was made by North Somerset Council against Mr John and Robert Atherton. These applications are the subject of separate Decisions.

Preliminary Matters

3. No description is given on the application form for Appeal A, so I have used the one on the decision notice, which is also used on the appeal form.
4. Appeal A relates to Class Q(b) that allows a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) and for building operations reasonably necessary to convert the building. Appeal B relates to Class R(a) which allows

change of use of a building and any land within its curtilage from a use as an agricultural building to uses including Class E.

Main Issues

5. The main issue for Appeal A is whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 1, Class Q of the GPDO.
6. The main issues for Appeal B are the impacts of the proposed development on:
 - transport and highways,
 - noise; and
 - biodiversity.

Reasons

Appeal A

7. Class Q(i) sets out that development would not be permitted under Class Q(b) where it would consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls, or drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.
8. The installation or replacement of walls is outlined in PPG¹ as being potential works permitted where reasonably necessary, as are internal structural works and providing a new floor. Such works are proposed as part of the scheme.
9. However, as set out in PPG the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. Hibbitt² clarifies that to fall within this Class, the buildings should be converted without operations that would amount either to complete or substantial re-building.
10. The concrete frames and foundations are said to be in a good condition and adequate structurally to allow additional vertical loads. Nonetheless, Barn B is currently almost completely open to one long elevation. Similarly, other than gates and pillars, the 2 long sides of Barn C are also open and without walls. The roofs of both buildings would also be reclad. Given the large open areas of the buildings at present, and the extent of the works proposed, the buildings are currently not capable of functioning as a dwelling and require substantial rebuilding.
11. Therefore, as a result of the existing condition of the buildings and extent of the proposed works, the building operations would fall outside the scope of Class Q of the GPDO and the proposals would not be permitted development.
12. As I have found the scheme would not be permitted development, there is no need for me to consider the prior approval and matters in the other refusal reasons.

¹ Paragraph: 105 Reference ID: 13-105-20180615

² Hibbitt v SSCLG [2016] EWHC 2853

Conclusion

13. For the reasons given above, the proposal subject to Appeal A is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. The appeal is therefore dismissed.

Appeal B

Transport and highways

14. The access lane from the public highway to the appeal building is narrow for much of the route. There is a passing bay along part of the access lane though. From the details before me, due to the size of the agricultural unit as a whole, I cannot be sure that the passing bay would have benefitted from the permitted development set out in Part 6 Class B of the GPDO even if it were put in place for agricultural purposes.
15. The evidence from the appellant states that the passing bay is not included in the proposal. In any event, Class R does not permit any operational development. It is only concerned with the change of use.
16. Planning permissions for associated operational development can be granted after the prior approval. However, that does not alter the fact that express planning permission is still needed for such operations. Planning permission is not granted under Class R for such works and it is not a 2 stage process linked to the prior approval application.
17. No planning application has been made for the passing bay and prior approval cannot be sought after the development takes place. While there is no enforcement notice at present, it has not been shown that the passing bay is immune from such action. Although the Highways Officer raised no objection to it, there may be other considerations relevant to whether permission would be granted. Granting the prior approval is not prohibited because of this, but there is no certainty of permission being granted for the passing bay.
18. The traffic movements associated with the agricultural use are said to be low, with those associated with the proposal itself not being significant. Nonetheless, the proposed development would lead to an increase in traffic movements and accommodation is proposed for a number of staff. Moreover, the level of use of the agricultural buildings could increase.
19. As such, the proposal would bring about a greater possibility of vehicles meeting and needing to pass each other. At the access it has not been shown that this is possible for larger vehicles, only for a car and van. Without a passing bay, passing of such vehicles would require vehicles to either wait on the road, reverse on to the road or back into the site.
20. The Technical Note indicates any waiting would not be for a considerable time. Nevertheless, while visibility at the access is sufficient for vehicles leaving in a forward gear, delays would disrupt the flow of traffic and could result in vehicles reversing or waiting on the highway under conditions where visibility would be more limited. This would increase the risk of collisions and dangerous movements to avoid them.
21. No parking provision is included within the application site. Again, while this could be provided later and subject to a separate permission, I cannot be

certain it would be granted, if an application were submitted. The wider area within the appellants ownership would be more than sufficient in size. Notwithstanding this, while an area to the rear of the appeal building has been suggested, no parking layout is provided to show that sufficient parking spaces and circulation areas could be accommodated and that this would not prevent or disrupt the circulation routes for the other buildings. This could mean vehicles needing to park elsewhere. In the absence of a clearly suitable alternative, vehicles would likely park on the road near the entrance to the site, at the entrance itself or at the passing bay if it remained. This would limit visibility at the access and cause further disruption to the free flow of traffic.

22. Therefore, the proposal would result in unacceptable and harmful traffic and highway impacts.

Noise

23. The appeal building is largely enclosed, although with slats for much of the upper part of the walls. The Environmental Noise Assessment provided related to the residential scheme subject to the other appeal. Nevertheless, the appeal building is located a similar distance from the noise sources said to be of concern and provides an indication of the levels of noise that would be experienced.
24. The offices would not be a place of residence where people would sleep or include external amenity space for relaxing. As such, how users would be affected by noise, such as noise early or late in the day, and their expectations, would be different due to their times and duration of use. This would also be the case for temporary and sporadic activities on nearby land. As such, while some noise from nearby activities would be experienced, it would not be unacceptable. Therefore, it would not cause any unreasonable restrictions on the operation of the other nearby uses.
25. Indicative elevations have been provided. However Class R does not permit operational development. A subsequent planning application would be required for the works to the building itself, which could include any noise mitigation measures. Although there is no planning permission in place at present, given the existing condition of the building, development would be needed that would require such a submission. The evidence before me suggests that works to ensure appropriate noise levels for future users would be achievable. The Environmental Protection officer reached the same finding.
26. The scheme before me is materially different to the Hill Farm³ one as the concerns for that scheme related to noise generated from the appeal building which was to be a dance hall and it was not clear if they could be achieved.
27. The other agricultural buildings near the site were used for storage at the time of my visit. While they could in future be used for other purposes, such as housing livestock, were the appeal allowed a condition could be imposed to prevent this. Such a condition would be reasonably related to the subject matters approval is being sought for.
28. Consequently, the proposal would not lead to unacceptable noise impacts.

³ APP/W3520/W/22/3295602

Biodiversity

29. The Preliminary Ecological Appraisal (PEA) found no obvious nests for birds and considered the buildings to be low value for breeding and foraging birds. While carried out more than a year ago, there is no convincing evidence that the context and nature of the appeal site has altered to any significant degree since.
30. Bat Activity Surveys (BAS) were provided following the recommendations of the PEA. The BAS states there were no site-specific limitations noted during the surveys, which were undertaken during the suitable survey season and during suitable weather conditions. There has been no compelling evidence to the contrary. While recordings were not taken from the building itself, the BAS did find activity at the site as a whole. There is no indication that the appeal building was being used as a roost, no droppings were found and the building was said to not have roof voids or other suitable concealed spaces considered suitable for roosting bats. In addition, trees and hedgerows are not to be removed.
31. In light of the above, were the appeal to be allowed, conditions could be imposed for matters such as lighting and further checks prior to the commencement of works to prevent any harm to protected or other species and their habitats.
32. Any effects on the North Somerset and Mendip Bats SAC or other European sites could be addressed via an application made under Regulation 77 of the Conservation of Habitats and Species Regulations 2017.
33. Therefore, the proposal would not harm biodiversity.

Conclusion

34. For the reasons given above, appeal B is dismissed.

Stuart Willis

INSPECTOR