



Appeal Decision

Site visit made on 29 October 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 January 2025

Appeal Ref: APP/E3335/W/24/3344840

Barn at Dark Lane, Upton Noble, Shepton Mallet, Somerset BA4 6AT

- 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 Mr and Mrs B Riley against the decision of Somerset Council.
 - The application Ref is 2023/2409/PAA.
 - The development proposed is the change of use of an agricultural building to a dwellinghouse (Use Class C3) 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 an agricultural building to a dwellinghouse (Use Class C3) and associated operational development at Barn at Dark Lane, Upton Noble, Shepton Mallet, Somerset BA4 6AT, in accordance with the terms of the application 2023/2409/PAA, including Drawing Nos MB/2101/0823-200_01, MB/2101/0823-200_03 and MB/2101/0823-200_04 submitted with it and subject to the following conditions:
 - 1) No development shall commence until details of the access off Dark Lane have been submitted to and approved in writing by the local planning authority. The dwelling shall not be occupied until the approved access has been constructed and shall thereafter be retained.
 - 2) No development shall commence until details of the foul and surface water drainage have been submitted to and approved in writing by the local planning authority. The dwelling shall not be occupied until the approved foul and surface water drainage scheme has been implemented and shall thereafter be retained and maintained.
 - 3) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details before the dwelling is first occupied. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.
 - 4) Demolition or construction works shall take place only between the following hours: 08:00-18:00 (Monday-Friday) and 08:00-14:00 (Saturday). No demolition or construction works shall take place at any time on Sundays or Bank or Public Holidays.

Preliminary Matters and Main Issues

2. Within the appeal documents, the appellant has submitted a Structural Inspection (SI) report¹. This was not before the Council when the application was determined. However, the Council have had the opportunity to comment on its contents. I am therefore satisfied that no party will be prejudiced by considering the report within my determination of this appeal.
3. Whilst changes to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO) have recently come into effect², the prior approval application was submitted to the Council before this date. Therefore, transitional arrangements require me to determine this appeal in accordance with the provisions of Class Q in place at the time of submission.
4. Under Article 3(1) and Schedule 2, Part 3, Class Q(b) of the GPDO the change of use of a building and any land within its curtilage, from use as an agricultural building to a use falling within Class C3 (dwellinghouses) together with building operations reasonably necessary to convert that building is permitted, subject to several limitations and conditions.
5. Paragraph Q.2(1) sets out that the development is permitted under Class Q(b) subject to the condition that before beginning the development the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required. The Council has refused the application in relation to the suitability of the appeal building for conversion and consequently its non-compliance with paragraph Q.1. However, the Council did not consider the proposal against paragraphs Q.2(1) and W nor conclude on the prior approval matters. Hence, the main issues are:
 - whether the proposed development falls within the permitted development rights under Schedule 2, Part 3, Class Q(b) of the GPDO; and
 - if so, whether prior approval would be required.

Reasons

Whether permitted development under Schedule 2, Part 3, Class Q(b)

6. The main parties agree that the appeal site, including the hay barn, was used solely for agriculture on 20 April 2013, as required by paragraph Q.1(i). I have no substantive reason to disagree. There is also no dispute that the appeal scheme complies with all other limitations and conditions set out in Q.1, except for Q.1(i). This states that building operations that are considered to be reasonably necessary for Class Q(b) include:
 - (i) the installation or replacement of the following, to the extent that would be reasonably necessary for the building to function as a dwellinghouse, (aa) windows, doors, roofs or exterior walls; or (bb) water, drainage, electricity, gas or other services; and
 - (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by Q.1(i)(i).
7. The 'Dutch Barn' building comprises a steel framed structure with a curved roof and three closed sides. The SI report states that the steelwork frames, posts,

¹ Ref: R240215/SI/00, prepared by Simon Bastone Associates Ltd, dated 3 May 2024

² 21 May 2024

purlins, eaves, beams and rails show no sign of any damage or significant corrosion. Externally the rear and one of the side walls of the barn comprise corrugated galvanised sheeting. Further sheeting is located above the stone wall which forms the other side wall. The curved roof consists of thick corrugated fibre cement sheeting in good condition. As concluded by the SI following a trial hole investigation, the concrete pad foundation to one of the steel columns is devoid of significant corrosion. I have no compelling reasons before me to disagree with the conclusions of the SI regarding the condition of the structure of the barn.

8. The loading calculations within the SI report, which have been prepared by a suitably qualified and experienced chartered structural engineer, are not disputed by the Council and no substantive evidence has been provided for me to doubt their accuracy. Instead, the Council concluded that the work required for the barn to enable conversion exceeds what is reasonably necessary for it to function as a dwelling.
9. In the case of the appeal barn, the existing structure and external materials will be retained, with the only external changes being the introduction of openings and the infilling of the currently open end of the barn. These are not significant alterations and are reasonably necessary for the building to function as a dwelling as per the provisions of Class. Q.1(i)(i). Replacement guttering and downpipes are also operations permissible under this provision. Unlike in the Hibbitt³ case, the operations proposed do not amount to complete or substantial rebuilding of the pre-existing structure.
10. Whilst the proposed development includes the lining of the walls with timber stud work and insulation, new dividing walls and an upper floor, these are internal works which are not restricted by the GPDO. Similarly, any cleaning and/or treatment of the steel frame would be a reasonably necessary operation.
11. Therefore, I conclude the proposed development falls within the permitted development rights under Schedule 2, Part 3, Class Q(b) of the GPDO.

Prior approval matters

12. The prior approval matters set out under Class Q(b) comprise considerations relating to transport and highways, noise, contamination, flooding, the practicality of the residential use, design and external appearance and daylight.
13. With respect to **transport and highway** matters, these relate to the direct impact of the development and not wider issues such as whether the location is accessible to a range of services and facilities.
14. The proposed development would be accessed via an existing gated gap between the stone boundary walls which are set back from the lane behind a verge. No other structures or landscape features are located within the site boundary on either side of the access. Therefore, despite the shallow depth of the verge and the modest height of the stone walls, I have no compelling evidence before me to suggest the required visibility splays cannot be accommodated and safe access from the site achieved.

³ *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin)

15. Similarly, although Dark Lane is narrow and devoid of pavements and lighting, few dwellings are accessed from it before narrows further and takes the form of a muddy track. Despite the anecdotal evidence that the lane and track are well used for dog walking, the increase in vehicle movements from the proposed dwelling would be minimal and, therefore, unlikely to conflict with other users of the lane.
16. Interested parties have indicated that the bend of Church Street/Bull's Lane, where Dark Lane meets this main route through Upton Noble, is dangerous. However, no evidence has been provided to substantiate this assertion. During my site visit, I observed that the setback of Church Farmhouse with the low boundary wall to its front garden provides drivers with sufficient visibility along this main route to exit Dark Lane safely. When turning right into Dark Lane, the increased width of the carriageway on the bend allows drivers to position their vehicle to maximise visibility up Bull's Lane, despite the tall roadside hedgerows.
17. Given the barn's location adjacent to existing residential properties on the edge of Upton Noble, any **noise** from its residential use would not be dissimilar to its neighbours, despite the tranquillity of the surrounding countryside. However, in the interest of protecting the living conditions of neighbouring occupiers, the imposition of a condition which controls the hours of construction or demolition is reasonable.
18. As the historical use of the appeal site is agricultural, with the barn being used for hay storage, there is no compelling evidence before me to conclude that there is a risk of **contamination** on the site. Whilst it may be the case that the profiled fibre cement roof cladding may contain an element of asbestos, the Structural Appraisal⁴ and the SI confirm there are no signs of corrosion or water ingress to the roof covering which would necessitate its removal. It is not, therefore, necessary to impose any conditions requiring further investigation to make the proposed development acceptable in this regard.
19. **Flooding** - the appeal site is located within Flood Zone 1 and, aside from anecdotal comments from interested parties regarding previous flood events in Upton Noble, no substantive flooding issues have been presented to me. However, to ensure foul and surface water drainage is appropriately managed, a condition requiring submission and approval of these schemes is necessary.
20. The barn's location adjacent to existing residential uses and open countryside would not be harmful or objectionable to the extent that it is not sensible or reasonable for conversion. As such, the **practicality of the residential use** of the barn is acceptable.
21. My attention has been drawn to Prospect Farm and Church Farmhouse, two Grade II listed buildings located on the opposite side of Dark Lane from the appeal site. Given the prior approval matters include **design and appearance**, the Framework requires me to take into account the impact of the development on the setting of these listed buildings. These circumstances do not, however, result in the need for a Heritage Impact Assessment.
22. The special interest/significance of the listed buildings, insofar as they relate to the appeal scheme, are primarily derived from their age, quality of architectural features and materials, and their association with the agricultural use of their surrounds. Given the limited external alterations to the barn, it would retain its

⁴ Prepared by Acorus, dated November 2023

appearance as an agricultural structure and would be experienced as such within views of the listed buildings. The setting of the listed buildings would not, therefore, be harmed by the proposed development.

23. Glazed windows and doors are proposed for all habitable rooms, as shown on the proposed plans and elevations with sufficient areas of glazing to provide satisfactory levels of **daylight** to these rooms. Except for the 'snug' room on the ground floor, the openings are located on the northeast or southeast elevations, orientated away from the existing adjacent dwellings.
24. Taking the above considerations into account, I conclude that, subject to the imposition of suitably worded conditions, the proposed development should be granted prior approval.

Other Matters

25. Interested parties have indicated that bats, birds and/or owls may roost in the barn. However, the Council's position is that there are no protected species on the site and no other compelling evidence is before me which substantiates the representations from interested parties. The form and scale of the proposed development together with the size and location of the appeal site, does not trigger the need for an Environmental Impact Assessment to be prepared.
26. Elements of the proposed development, such as energy efficiency, heating provisions and lighting are not matters which require prior approval. Nor is the availability of affordable homes within the Upton Noble, even if many of the larger properties in the settlement are often empty.
27. My attention has been drawn to the previous planning application and subsequent unsuccessful appeal⁵ on the site. However, this involved more extensive work to the barn, including additional structural components necessary to support replacement roof sheeting. Furthermore, as an application for planning permission, rather than prior approval, this previous scheme was determined against the development plan. It is not, therefore, directly comparable to the appeal scheme.

Conditions

28. Given I have listed the submitted plans in my decision and Part W(12) of Schedule 2, Part 3 of the GPDO requires development to be carried out in accordance with the details submitted, the Council's suggested plans condition is unnecessary.
29. Part W(13) allows local planning authorities to grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. As set out above, it is necessary to impose a pre-commencement condition requiring details of the access arrangements in the interests of the safety of users of Dark Lane. To ensure foul and surface water drainage is adequately managed, a condition requiring the submission and approval of such schemes is necessary.
30. It is reasonable for me to impose a condition requiring hard and soft landscaping schemes to be submitted to and approved by the Council prior to the development commencing to ensure the site complements the character and appearance of the

⁵ Council Ref: 2016/0693/FUL and appeal ref: APP/Q3305/W/16/3154471

area. To protect the living conditions of neighbouring occupiers I have also imposed a condition restricting the hours when construction works are permitted.

Conclusion

31. For the reasons given above the appeal is allowed and prior approval is granted, subject to conditions.

Juliet Rogers

INSPECTOR