
Appeal Decision

Site visit made on 7 December 2015

by Robert Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7th January 2016

Appeal Ref: APP/R3325/W/15/3129012

Beacon Bottom, Peak Lane, Compton Dundon, Somerset TA11 6NZ

- 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) Order 1995 (as amended).
 - The appeal is made by Mr J Rowland against the decision of South Somerset District Council.
 - The application Ref 14/04971/PAMB, dated 5 November 2014, was refused by notice dated 2 January 2015.
 - The development proposed is described on the application and appeal forms as: *'Removal of 1 bay from existing building and conversion of remainder to a 5 bedroom dwelling'*.
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Decision

1. The appeal is dismissed.

Preliminary Matters

Description and Location

2. The proposal is described by the Council as: *'Prior approval for the change of use of agricultural storage building to dwelling'*. That is a more concise and relevant description and has been used for the purposes of this appeal determination.
3. According to the appeal form the site is at grid reference GR 348315/131860.

Amended Legislation

4. After the application was determined a new consolidated Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) came into force on 15 April 2015. Under the new GPDO, permitted development rights for the change of use of agricultural buildings to dwelling houses now fall under Class Q, rather than Class MB. However, the legislation provides that any applications made under the provisions of the previous GPDO shall be treated as if made under the new GPDO. The new GPDO was accompanied by revised national Planning Practice Guidance (PPG) issued on 5 March 2015.
5. Schedule 2 Part 3 Class Q of the GPDO defines permitted development as development consisting of: Q(a) a 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); and Q(b) building operations reasonably necessary to convert the building to a use falling within C3 (dwellinghouses).

6. Paragraph Q.1 provides a list of exclusions as to when development would not be permitted by Class Q. Paragraph Q.2 sets out matters for which prior approval may still be required for development which satisfies the criteria of Q.1.

Revised Reasons for Refusal

7. Because of changes in the wording of the GPDO and the PPG the Council has amended the original reasons given for not granting approval for the development. In particular the PPG at paragraph 13-109-20150305 advises that there is now no test in relation to the sustainability of location. It follows that the Government does not intend that the Q.2(e) location criterion should be applied in this way. The Council has therefore withdrawn the associated reason for refusal whilst still maintaining that the location and siting would be impractical and undesirable by reason of the introduction of a residential use, exacerbated by a poorly detailed design that would be harmful to the character and appearance of the countryside.
8. The Council has added a new reason for refusal which relates to the definition of building operations in Q.1(i). That definition allows for partial demolition and for the installation or replacement of windows, doors, roofs or exterior walls, all of which are proposed here. However, as confirmed by the PPG at paragraph 13-105-20150305, the permitted development right is not intended to include the construction of new structural elements. The Council considers that there is a lack of convincing evidence that the conversion would not require new structural elements such as foundations. Consequently the Council now considers that these would not be qualifying building operations for the purposes of Q(b). The Appellant has responded to the Council's new reason by submitting supplementary evidence on which the Council has commented.

Curtilage

9. Class Q(a) relates to the change of use, *'of a building and any land within its curtilage'*. *'Curtilage'* means, for the purposes of Class Q, *'(i) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (ii) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser.'*
10. In this case the application site has been defined to include the area of land between the retained part of the building and the southern field boundary as a garden together with room to park 2 cars adjacent to the north side of the building. I consider that these areas of land would qualify as curtilage under definition (i) above. However the combined area may marginally exceed the area as defined under (ii). The red line also includes the access track from the highway and a turning area but these would continue to be shared with the farming operation and I do not consider that they qualify as part of the curtilage.

Main Issues

11. The first main issue is considered to be: whether the development would require building operations that would not qualify as permitted development and would therefore exclude the development from the provisions of Class Q. Subject to the conclusions on that matter, a second main issue would be whether the location and siting would be impractical or undesirable having regard to the design or external appearance of the building and the effect of the overall development on the character and appearance of the area.

Reasons

Building Operations

12. The building is of steel portal-framed construction. There is surface rusting to the frame. The roof and upper parts of the elevation are covered in rusty steel sheeting which would be removed. The building is currently used to capacity to store straw bales. This limits access for inspection.
13. The application was accompanied by drawings which show that one of the building's 4 bays would be demolished and that the remaining 3 bays would be converted to a 2 storey dwelling. Q.1(i)(ii) would exclude from permitted development those demolition operations that are not '*reasonably necessary*' to carry out the building operations allowed by paragraph Q.1(i)(i). In that regard the Council considers that the proposed demolition of one bay of the building goes beyond that which is reasonably necessary. However the west elevation with its main lounge and bedroom windows would otherwise either remain within the enclosed structure or there would be an incongruous exposed steel frame without cladding to the west of that elevation. In these particular circumstances I consider that the demolition works are reasonably necessary.
14. More significant here is that the PPG advises at paragraph 13-105-20150305 that: '*it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right.*'
15. At the appeal stage the Appellant submitted a structural engineer's survey. This noted amongst other things that the submitted drawings: '*indicate a building of a layout and form that will be self supporting, and that will not impose additional loading onto the existing structure*'. It concluded: '*This survey has found the barn to be capable and suitable for conversion into habitable accommodation, without altering, or imposing additional load on the existing structure of the building*'. The report notes that the foundations had not been exposed by excavation. It makes no comment on the design or condition of the foundations.
16. Following the Council's appeal statement which raised building operations as an issue, the Appellant submitted an amended survey report by the same engineer. Again this does not describe the construction of the floor or foundations. However it comments that the 'floor' has been used annually to support hay bales at 2.2 tonnes per square metre and a 4 tonne tractor. It also comments that the steel frame '*currently supports about 2 tonnes of roof sheet and snow when required*' and that as there has been no distortion or settlement it was concluded that the foundations were well-constructed and

capable of a 'modest' increase in loading. There is a separate comment that the steel frame would be capable of supporting 20-55 tonnes but that would necessarily depend upon the adequacy of the foundations to support an increased load. An increase from 2 tonnes to 20 or 55 tonnes would not be a modest increase.

17. Whilst referring to the description of the self-supporting design in the submitted drawings, the amended report suggests that: '*an alternative arrangement would consist of a suspended ground floor, first floor and new external wall framing secured to, and supported by the existing stanchions, which, as has been demonstrated above, are clearly adequate*'. However the report has not demonstrated that the foundations would be adequate to support more than a 'modest' increase in loading. Also no estimate was provided of the weight of the completed structure. The report concludes: '*This survey has found the barn to be capable and suitable for conversion into habitable accommodation, within the context of permitted development right, without altering the structure of the building.*'
18. The Council points out that there remains a lack of evidence concerning the foundations or how the significant weight of the floors, walls and windows would be supported, particularly given the span widths and the extensive proposed glazing. They consider that additional foundation support would be needed.
19. On the site visit it was established that there appeared to be a concrete foundation close to the base of one of the frames. This is likely to be a pad foundation as that there did not appear to be a more extensive concrete slab floor. It is thus likely that the straw bales are stored directly on the ground. In any case the survey report confirms that a suspended ground floor would be needed and thus it is not relevant what weight might have been supported by the existing 'floor'. Consequently both of the floors, all internal and external walls and ceilings, the windows, the doors and all the fixtures and furniture and other contents of this 5 bedroom dwelling of over 200sqm floor area would need to be supported by the steel frame and foundations that were only originally intended to support the existing steel sheeting.
20. Of particular note is that the span across the width of the building between the retained portal frame would be over 9m. That suggests that unusually long and thick supporting joists would be needed. There are no submitted drawings of such a scheme or other evidence to demonstrate that this would be a practical arrangement. Neither is there evidence of whether the foundations could support the additional weight or to show how the elements would be attached to the frame without increasing the dimensions of the building, (another requirement to qualify as permitted development).
21. The Appellant has referred to 2 other appeal decisions where it was concluded that a development could qualify as permitted development where only the steel frame was retained, as here. However the Inspector in the first case¹ in Brough considered that the frame would be adequate to support the structure without additional structural works. I do not consider that has been demonstrated in this case. In the second appeal² concerning a steel framed building in Kings Lynn, the Inspector noted that new brick plinth walls would be

¹ APP/E2001/W/15/3012005

² APP/V2635/W/15/3005848

included in the development. That would not be possible in the present case without creating new foundations for those walls.

22. It is concluded that it has not been demonstrated that the building could be successfully converted without significant new building operations outside the definition at Q.1(i). Therefore the scheme would not qualify as permitted development. Consequently, it is development for which an application for planning permission is required. An application for planning permission would be a matter for the local planning authority to consider in the first instance and cannot be addressed under the prior approval provisions set out in the GPDO.
23. As the development would not qualify as permitted development it is not necessary or appropriate to determine the second main issue. Accordingly, the appeal should be dismissed.

Robert Mellor
INSPECTOR