
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/15/3129002

**Meadow View, Street Road (B3151), Compton Dundon, Somerset
TA11 6PU**

- 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 14/04975/PAMB, undated but received by the Council on 30 October 2014, was refused by notice dated 2 January 2015.
 - The development proposed is described on the application form and appeal forms as '*Removal of two lean-to's and conversion of central section to a 4 bedroom dwelling*'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

Description

2. The proposal is described by the Council as: '*Prior approval for the change of use of a covered cattle yard to residential*'. That more concise and relevant description has been used for the determination of the appeal.
3. The site is on land with the OS reference OS 7314. According to the appeal form the site is at grid reference GR 348315/131860.

Amended Legislation

4. After the application was made 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 nation 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: (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 (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.

Amended Reasons for Refusal

7. The Council maintains 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. Since the changes to the legislation and guidance 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 (*reasonably necessary*) 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 to which the Council has responded.

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 tightly defined by a red line to include only the land covered by the existing structure and a narrow driveway connecting the building to the highway across the existing open concrete yard. One lean-to wing of the building would be replaced by open space and the other is indicated as a parking area for 2 cars. As the driveway would be shared with the continuing farming operation I do not consider it to be part of the curtilage. The curtilage otherwise qualifies under definition (i).

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 a Dutch barn of steel portal-framed construction with a curved metal main roof and two extensive lean-tos that are supported on their outer edge by block walls.
13. The application was accompanied by drawings which show that the 2 lean-to's would be demolished and that the remaining central portion would be converted to a 2 storey dwelling. Whilst the partial demolition would be relatively extensive as a proportion of the building's present floor area I consider that it would be *'reasonably necessary'* in order to allow for the creation of vertical flank elevations to the retained structure with windows to provide light and outlook to the habitable rooms.
14. 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. The roof structure is in satisfactory condition and capable of supporting similar new sheeting.'* 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 or the existing floor slab.
16. The Council's appeal statement claimed that the proposal could not be carried out without new structural elements, such as foundations. Following that statement, the Appellant submitted an amended survey report by the same engineer on which the Council has commented.
17. The amended report again does not describe the construction of the floor or foundations. Although the building is described as a cattle yard the report comments that the floor has been used annually to support hay bales at 1.8 tonnes per square metre and a 4 tonne tractor. It also comments that the steel frame *'currently supports about 1 tonne 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. It is unclear what is meant by a modest increase but I would not interpret that as a multiple increase over the present 1 tonne load. There is a separate comment that the steel frame would be capable of supporting 10-44 tonnes but that would necessarily depend upon the adequacy of the foundations. An increase from 1 tonne to 10 or 44 tonnes would not be modest.
18. 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 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.

19. 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.'* However there are no revised drawings to replace the drawings that were submitted with the application and which show a different form of construction.
20. 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 large glazed units. They remain of the view that additional foundation support would be needed.
21. On the site visit it was established that there is a concrete slab floor beneath the building. There is also an extensive concrete yard that extends well forward of the building and beyond the red line of the application site. That is closely associated with the building but has not been included in its curtilage. The concrete slab is not explicitly referred to in the survey report and no information has been provided as to its construction or depth. However it appears to have been used as the base for some of the blockwork and sleeper walls. The amended survey report does not refer to any need for a suspended ground floor and only refers to the need to support the first floor off the existing stanchions. That implies that the ground floor could be supported directly on the concrete slab. It is also possible that some of the weight of the ground floor walls and windows, fittings and furniture could also be supported on that slab. That would leave only the ceilings, roof, and first floor walls and windows to be supported by the steel frame.
22. Whilst the Appellant's evidence lacks full information on the foundations or the weight of the elements that would be supported by the frame, there appears to be a possibility that the building might be capable of conversion to a dwelling using the existing frame and foundations including the floor slab. If so that it would therefore qualify as permitted development under Q(b). However, in the event that additional new foundations or other structure were to be required to carry out the development that would not so qualify. The submitted information is insufficient to allow a firm conclusion that this would qualify as permitted development under Q(b). However in case that could be demonstrated by further information I have also given consideration to the second main issue.

Location, Siting, Design and Appearance

23. In cases of permitted development the development plan policies do not apply in respect of the principle of development but they may be of relevance to more detailed matters of implementation such as design and appearance. No relevant development plan policies have been drawn to my attention. However paragraph W(10)(b) of the GPDO requires regard to the National Planning Policy Framework (the Framework) so far as relevant to the subject matter of the prior approval, as if the application were a planning application.
24. Paragraph 55 of the Framework seeks to promote sustainable development in rural areas. However whilst this advises that authorities should *'avoid new*

isolated homes in the countryside unless there are special circumstances' the PPG provides at paragraph 13-109-20150305 that the associated tests set out in the Framework are unlikely to be relevant here. Neither would similar objectives of the development plan to restrain development in the countryside be material.

25. Potentially relevant considerations would here include core planning principles at Framework paragraph 17 such as: *'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'* and *'take account of the different roles and character of different areas ... recognising the intrinsic character and beauty of the countryside'*. Section 7 includes more detailed design criteria such as that: *'decisions should aim to ensure that developments: will function well and add to the overall quality of the area; [and] respond to local character and history, and reflect the identity of local surroundings and materials while not preventing or discouraging appropriate innovation'*.
26. The Council's main concerns may be summarised as:
- The limited garden and parking area is unrealistic for a building of this size
 - The potential for domestic impact on a larger section of the land is great and virtually impossible and impractical to control
 - The proposal would be at odds with the essentially rural character and appearance of its setting
 - The design emphasises the domestic intrusion and exacerbates this harmful impact
27. The building stands alone in a field. It is a typical functional agricultural structure which one expects to see in a rural area. There are similar buildings in the wider landscape. It is not in itself remarkable or unsightly as the Appellant suggests. As the submitted building design is for a self-supporting structure which would not be permitted development it is not possible to draw firm conclusions about the building's design and appearance. That might change as a result of the *'alternative arrangement'* for conversion described in the amended survey report.
28. The submitted drawings provide only a general idea of the intended appearance for the dwelling elevations. In that regard the existing building has plain elevations with no windows or doors and it has an open east elevation. With the proposed demolition and the creation of completely new elevations and roof covering almost all visible parts of the converted building would be new and finished in different materials and finishes that would make it unrecognisable as a former agricultural building. The most striking features would be the 28 door and window openings including 6 triple full height patio windows, at least one of which may directly abut land used by livestock (which would be impractical). These very numerous and over large windows to all elevations would entirely replace the building's functional barn character with an incongruous urban design that would be alien to the local character and history of this rural landscape.
29. The impact of these changes would be exacerbated in that the building would be prominently located in full view of the busy main road and would also be

- seen from nearby public footpaths. Because the appeal site is so tightly defined there would be no opportunity for appropriate landscaping within the appeal site to screen, soften or filter views in a way that would help it to blend into its surroundings. Whilst these matters might be capable of being addressed in a revised design there is no such design before me.
30. The area surrounding the building is untidy and unsightly with mud, concrete and piles of bales covered in polythene, all of which is highly visible from the busy adjacent road. Such scenes are to be expected in a working farm but would provide poor living conditions for the occupier of the dwelling as well as impeding access to the subject building unless improvements are made in the management of the land around the building. However no information has been provided to show how the land around the dwelling would be managed after the development including what would happen to the extensive concrete open yard at the front or to the unused land between the building and the hedgerow to the north. The access is currently used by farm vehicles and animals and would apparently continue to be shared by the dwelling. The appeal statement refers to the possible use of an alternative access for agricultural traffic but that is not clearly described or defined in the current proposal.
31. If implemented as proposed the building would be surrounded on all sides by land in active agricultural use. It is unlikely that the occupiers would be content with a small garden enclosed by a concrete block wall with a concrete slab base and I consider that the garden and parking arrangements would be impractical and undesirable. The tandem parking arrangement would be inconvenient for the occupiers and would not allow for visitors. Visitors would be heavily dependent on access by car and could not park on the main road without creating an obstruction and hazard. I agree with the Council that it is highly likely that sooner or later there would be encroachment of parking and domestic use onto the land surrounding the building. That would be difficult to control by planning condition and it could exacerbate the harmful visual impact of the development if it were not suitably designed and laid out.
32. The definition of curtilage allows that land around an agricultural building and closely associated with it and serving its purposes can be included. That might allow for a larger curtilage than is proposed and would help to resolve some of the issues with parking and outside space. However none of these matters can be addressed in the current appeal because of the very limited site and curtilage defined in the application. Neither are there any proposals before me to secure the future management of the agricultural land around the building.
33. It is concluded based on the submitted scheme that the design and appearance of the building conversion in this rural location would be incongruous and undesirable and that the siting and layout of the parking and garden would be undesirable and impractical. This would be harmful to the character and appearance of the building and the countryside and contrary to relevant objectives of the Framework. The conditions under Q.2 of the Regulations are not met. Neither has it been demonstrated that additional structural work would not be needed. The appeal should therefore be dismissed.

Robert Mellor

INSPECTOR