
Appeal Decision

Site visit made on 1 February 2016

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 09 March 2016

Appeal Ref: APP/R3325/W/15/3130657

**Agricultural building, Poole Farm, High Ham, Langport, Somerset
TA10 9DH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr and Mrs S and G Allen against the decision of South Somerset District Council.
 - The application Ref 15/00203/PAMB, dated 13 January 2015, was refused by notice dated 13 March 2015.
 - The development proposed is change of use of an agricultural building to a dwelling (revised application).
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr and Mrs S and G Allen against South Somerset District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application to the Council was made under Schedule 2, Part 3, Class MB of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). However, that statutory instrument has been largely replaced with the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015¹. Equivalent provisions are now included within Schedule 2, Part 3, Class Q of that Order (hereafter referred to as Class Q). The relevant legislation provides for anything done under the previous provisions to be treated as if done under the new provisions, so an application made under Class MB has effect as if made under the new Class Q. I have proceeded on this basis.
4. During the course of the appeal the Council acknowledged that it was satisfied that the appeal building was solely in agricultural use as part of a trade or business at the relevant date, 20 March 2013. The Council therefore considers that its reason 01 as set out in its decision, relating to agricultural use is no longer relevant to the appeal proposal. Having regard to the submitted evidence, I have no reason to disagree with the Council in this respect.

¹ S.I. 2015 No 596

5. The appellants have requested that I consider drawing No 487 (00) 02 A as part of the appeal. This drawing shows revisions to the south elevation of the building including the retention of the existing poles and a small reduction in floor area. I have considered these drawings under the principles established by the Courts in *Wheatcroft*² and I am satisfied that they do not change the development to such a degree that to consider them would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of the drawings submitted with the application and the revised drawing.

Main Issue

6. The main issue in this case is whether or not the proposed development would comply with the permitted development criteria set out in paragraph Q.1 of the GPDO.

Reasons

7. Class Q permits development consisting of 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 (dwelling house) of the Schedule to the Use Classes Order³ (Class Q (a)), and building operations reasonably necessary to convert the building (Class Q (b)). This is subject to a number of situations where such development is not permitted, listed under paragraph Q.1, and to conditions in paragraph Q.2 setting out the circumstances when an application to the local planning authority for the determination as to whether the prior approval of the authority will be required.
8. There is no dispute that the proposal complies with paragraphs Q.1 (a), (b), (c), (d), (e), (f), (g), (h), (j), (k), (l) and (m) of Class Q of the GPDO. However, it is clear from the Council's decision notice that it considers that paragraph Q.1 (i) is not complied with.
9. Class Q.1 (i) of the GPDO states that development is not permitted by Class Q if the development under Class Q (b) would consist of building operations other than: the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1 (i) (i).
10. Further guidance in respect of this matter is provided within the Planning Practice Guidance (PPG). The PPG states that it is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore 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.
11. The appeal building is single storey, with concrete blockwork walls and a concrete floor slab under a corrugated sheet material roof over timber rafters and purlins. The roof structure bears on the blockwork walls and piers, and the

² Bernard Wheatcroft Ltd v SSE & Harborough DC [1982] P&CR 233

³ SI 1987/764 – The Town and Country Planning (Use Classes) Order 1987, as amended

- southern roof edge is supported by a series of circular section steel posts. The southern section of the building has an earth floor.
12. The Council's concern primarily relates to the southern part of the building which would be partially enclosed to form a sitting room. The remainder of this elevation would be an open sided, covered veranda. At present this elevation is largely open save for Yorkshire boarding on the side elevation and corrugated metal panels between 2 bays.
 13. The submitted drawings show new walls constructed on 3 sides of the new sitting room. Doors and windows would be provided within the south and west elevation of the sitting room. In this respect, the proposed works are reasonably necessary for the building to function as a dwellinghouse.
 14. I note that the appellants submit that the new walls would be constructed of timber stud with insulation and timber cladding and that they would sit on an internal floor slab and would be attached horizontally to the internal side of the existing steel posts. However, this level of detail is not shown on the submitted drawing. Indeed it appears from the drawing submitted with the appeal that the new walls would be constructed on the inside of the steel posts. It is not clear from the drawings how the posts would provide structural support to the new walls. Indeed, no substantive details have been provided showing how the new walls would be supported.
 15. The new walls and associated windows and doors are likely to be heavier than the existing cladding which this part of the building supports. Having regard to the likely weight of the new walls, along with the new doors and windows, and in the absence of detailed drawings showing the proposed works, I am not convinced that new structural works would not be necessary to support these new features. Furthermore, whilst noting the appellants' assertion that the building has sufficient structural strength to support the loadings from the new works, I have not been provided with substantive evidence to demonstrate this.
 16. In the absence of any definitive information, I find that the construction of the new walls and associated doors and windows on the southern elevation, would as a matter of fact and degree, result in new structural elements to facilitate the change of use. In the absence of convincing evidence to demonstrate otherwise, I am not satisfied that the building would be structurally strong enough to take the loading which comes with the external works on the southern elevation of the building. Consequently, the proposal would not accord with the scope of Class Q of the GPDO or the guidance contained within the PPG.
 17. I therefore conclude that the permitted development right to convert this agricultural building into Class C3 use does not apply. Thus the change of use of the building to a dwellinghouse cannot be addressed by the prior approval process. 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.
 18. Given my conclusion above, the appellants have requested that I consider attaching a condition requiring the southern elevation of the building to be an open veranda, as opposed to part veranda, part sitting room. Whilst noting

this matter, I have not been provided with the details of such a scheme and the changes necessary to the building could be significant. Furthermore, the Council has not had the opportunity to consider a revised scheme nor consulted on it. In the interests of fairness, I have determined the appeal on the basis of the details and drawings considered by the Council, as to do otherwise would deprive those who should have been consulted of the change the opportunity of such consultation.

Other Matters

19. I note the appellants' assertion that the Council cannot demonstrate a 5 year supply of deliverable housing sites and that the site is close to services and facilities in High Ham. However these are not determining factors in this appeal against a refusal to grant approval required under a development order.

Conclusion

20. The proposal fails the test in Class Q.1 of the GPDO and thus does not amount to permitted development under Class Q. It is of course open to the appellants to submit a further application for approval under Schedule 2, Part 3, Class Q of the GPDO to the Council in due course. Therefore, for the reasons given, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR