

CASE OFFICER'S REPORT

Application Reference: 17/12489/PNCOU
Date of Inspection: 16 January 2018
Date site notice posted: 16 January 2018
Date of press notice: n/a

POLICIES

Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class Q (GPDO)

ISSUES

The only consideration in the determination of this application is whether the proposed development conforms to the requirements and limitations of Class Q of the Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015.

REPRESENTATIONS

Keevil Parish Council: Object.

- (a) The building is not redundant as members of the Parish Council know that the buildings were in use to house ewes and lambs each year from 2013, and there is photographic evidence from 2014.
- (b) The proposal is for a major rebuild of the agricultural building which will have a much larger footprint than the original.
- (c) Access to the site is on a bend in the road with limited visibility of passing traffic.
- (d) The end of the building is less than 1 metre from the highway edge.
- (e) The appearance of the redeveloped building will affect the visual approach to the village.

Wiltshire Council's highways: Objection.

"The section of Main Street that serves the site is subject to a 60mph speed limit therefore a visibility splay of 2m by 215m measured to the nearside carriageway edge is required.

I am aware that vehicles may not be travelling at such speed and the number of vehicles travelling along Main Street may not be excessive, however such data would need to be demonstrated to ascertain whether a reduction in the required visibility can be applied.

The proposed visibility is inadequate and I am particularly concerned about the available visibility in the south-western direction, the alignment of the hedgerow from the neighbouring land restricts the available visibility.

In view of the above, I would not be in favour of any increase in the use of the existing access. I acknowledge that the access is currently in use, however, the proposed dwelling would generate more vehicle trips than that of the current use."

Wiltshire Council's environmental protection: No objection.

Public consultation consisted of the erection a site note and publication on the Council's website. 4 letters of objection received which may be summarised as follows:

- Major redevelopment / rebuild;
- Increased footprint over original which has been added to by temporary corrugated features;
- Highway safety;
- Anecdotal observations of agricultural use in 2014, 2015, 2016 and 2017;
- Impact on infrastructure to be mitigated through s106/CIL.

ASSESSMENT:

Permitted development insofar as relevant in this case is set out within the GPDO as:

"Q. Development consisting of –

- (a) 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 (dwelling houses) of the Schedule to the Use Classes Order; and
- (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within the Class C3 (dwelling houses) of that Schedule."

Paragraph Q.1 sets out a number of exceptions from (a)-(m). These have been noted and considered in light of the information provided and which has been taken on good faith. It is clear from site inspection that the building is in agricultural use from the agricultural waste on the floors and associated agricultural paraphernalia. Objectors set out anecdotally that there has been agricultural use through the last 4 years.

In regards to Q.1(g) it states "the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point". It is clear that two sections of the building would have a different roof form by adding a dual pitch form to what are currently mono-pitch roofs. On this basis alone it is considered that this proposal cannot be considered as permitted development under Class Q as the existing buildings would be extended beyond the external dimensions. At least one also appears on a revised footprint.

It is important to return to the heart of the permitted development. In regards to Q(b) building operations are allowed but only those "reasonably necessary to convert the building" (emphasis added). Q.1(i) goes on to detail that:

Development is not permitted by Class Q if the development under Class Q(b) would consist of building operations other than -

(i) the installation or replacement of -

(aa) windows, doors, roofs, or exterior walls, or

(bb) water, drainage, electricity, gas or other services,

to the extent reasonably necessary for the building to function as a dwellinghouse; and

(ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i)".

The submitted plans show the provision of alterations to the existing access points and this works is not covered by Class Q – they are not considered to represent "other services". Indeed the access road is a C-classified highway and so the works cannot be considered as permitted development under another class.

The proposed elevations detail significant rebuilding works of the ancillary sections of the building which cannot be considered as a conversion of the building rather cumulatively significant demolition and extension of the retained building / rebuilding of sections of the building. Such work is not covered by Class Q.

The submitted information makes no mention of what may be required with the floors, or substantiate whether or not the historic frame of the main cow byre is capable of supporting all the new external works.

It is submitted that the extent of these works, and in the absence of a structural report to show that the building can support the new structures and materials, that this is not a 'conversion' and puts the proposal far beyond what can reasonably be considered as a conversion.

There has been a recent court decision in *Hibbitt and Another v SoS for Communities and Local Government and Rushcliff Borough Council*, which must be taken into account. This case examined a Prior Approval Application to convert an agricultural building. Rushcliff Borough Council refused the Prior Notification application and the Planning Inspectorate dismissed the appeal. Mr Justice Green then found in favour of the defendants (SoS and Rushcliff BC).

Mr Justice Green said the following -

"... There will be numerous instances where the starting point (the "agricultural building") might be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such magnitude that in practical reality what is being undertaken is a rebuild. In fact a more apt term than "rebuild", which also encapsulates what the Inspector had in mind, might be "fresh build" since rebuild seems to assume that the existing building is being "re" built in some way. In any event the nub of the point being made by the Inspector, in my view correctly, was that the works went a very long way beyond what might sensibly or reasonably be described as a conversion. The development was in all practical terms starting afresh, with only a modest amount of help from the original agricultural building."

Whilst this is not such an extreme case, it is considered that the level of demolition and rebuild is actually significant and certainly goes beyond what can be considered as a conversion. The proposals clearly extend beyond the envelope of the existing building. It is considered that the proposal therefore fails to be a conversion within the meaning of Class Q having regard to the paragraphs Q(b), Q.1(i)(i) and Q(i)(ii).

Notwithstanding these conclusions regard has been had to the various conditions set out in Class Q under paragraph Q.2. This requires an application for prior approval against the details set out at paragraph Q.2(1)(a)-(f) having regard to the provisions of paragraph W.

The application site has two access points, both of which would be closed off, and new access created (requiring planning permission and which has not been sought or obtained). Use of either existing or the proposed access points would be a concern in this location as it is a C-classified highway and associated level of vehicular movements. The location is subject to a 60mph speed restriction and it is clear that both accesses have substandard visibility. This is therefore an area for concern. Indeed the proposed access arrangements do not show an adequate level of visibility. Highway officers have raised objection to the proposals on this basis.

In terms of noise there is no significant concern. The site is adjacent to a residential property and agricultural fields and a residential use of the site would not be at risk of, or cause harm in relation to noise.

Given that the site has been in agricultural use for the keeping of animals there is no significant concern in relation to contamination.

The site lies within flood zone 1 and is not recorded as being subject to any elevated risk of flooding from ground or surface water sources either. The adjacent ditch is noted, but there is no flood risk concern in this case.

Whilst the siting of the building is outside of a location where residential development would ordinarily be supported it is nonetheless located in an area without any special landscape designations, adjacent to an existing 2-storey dwelling and would represent a continuation of the ribbon development that characterises the approach and exits of the main body of Keevil village. As such it is not considered to be an impractical or undesirable location for such development in the context of permitted development allowances set by government.

The proposals provide details of the design and external appearance of the buildings. The design of the proposals would follow the general form of the existing cow byre. The materials could be satisfactory and whilst the fenestration treatment is not ideal, it is not of such concern to merit

refusal of the proposal of itself. There is no concern in relation to criterion Q.2(1)(f). The design and external appearance of the building on balance poses no significant concern within the context of a prior approval application.

RECOMMENDATION:

Refuse.

1.

The proposal, by reason of the extent of the new works required to form the dwellinghouse, does not amount to a change of use of the existing building but rather is, in all practical terms, the erection of a new dwellinghouse afresh. It follows that the basic principle of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 - which is to allow as 'permitted development' the change of use of agricultural buildings to dwellinghouses and building operations reasonably necessary to achieve conversion – does not apply.

2.

The proposal would result in the external dimensions of the building extending beyond the external dimensions of the existing building contrary to Q.1(g). It follows that Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 does not apply.

3.

The proposal details the provision of a new access, yet such works are beyond the scope of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015. No other permitted development rights for these works apply and so they require planning permissions in their own right. The two existing accesses and the proposed access that may serve the development have restricted visibility. The proposal would be likely to intensify the use of the site over and above the lawful use. As such the proposal would cause a harmful transport and highway impact contrary to Q.2(1)(a) of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the National Planning Policy Framework paragraph 32.