

Appeal Decisions

Site: 55 Richmond Road Taunton

Proposal: ERECTION OF REPLACEMENT SINGLE STOREY AND TWO STOREY EXTENSION TO THE REAR OF 55 RICHMOND ROAD, TAUNTON.

Application number: 38/15/0049

Reasons for refusal

1. The proposed design of the two storey extension, by virtue of its flat roof, will detract from the character and appearance of the building within the terrace and as such the proposal is contrary to the retained Policy H17(C) of Taunton Deane Local Plan and Policy DM1(d) of Taunton Deane Core Strategy.

Appeal decision: ALLOWED

Site: LAND AT BAKERS FIELD, CURLAND, TAUNTON, SOMERSET

Proposal: PRIOR APPROVAL FOR PROPOSED CHANGE OF USE FROM AGRICULTURAL BUILDING TO DWELLING HOUSE (USE CLASS C3) AND ASSOCIATED BUILDING OPERATIONS AT LAND AT BAKERS FIELD, CURLAND

Application number: 15/15/0001

Reasons for refusal

The Local Planning Authority considers that the site was not used solely for an agricultural use, as part of an established agricultural unit on 20th March 2013. Therefore, the proposed development does not comply with the limitations or restrictions set out in Schedule 2, Part 3, Class MB, paragraph MB.1 (a) of the Town and Country Planning (General Permitted Development) (Amendment and Consequential Provisions) (England) Order 2014 and it is not permitted development.

Appeal decision: DISMISSED

Appeal Decision

Site visit made on 21 September 2015

by **G P Jones Bsc(Hons) MA MRTPI**

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

Decision date: 08 October 2015

Appeal Ref: APP/D3315/D/15/3062070

55 Richmond Road, Taunton, Somerset, UK TA1 1EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Murray against the decision of Taunton Deane Borough Council.
 - The application Ref 38/15/0049, dated 4 February 2015, was refused by notice dated 7 April 2015.
 - The development proposed is described as 'Existing extension had to be demolished due to dangerous brickwork. Proposed works are to reinstate previous two storey extension with slightly larger ground floor footprint'.
-

Decision

1. The appeal is allowed and planning permission is granted to reinstate previous two storey extension with slightly larger ground floor footprint at 55 Richmond Road, Taunton, Somerset, UK TA1 1EN in accordance with the terms of the application, Ref 38/15/0049, dated 4 February 2015, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: jpm/7050, jpm/7051, JPM/7052, JPM/7053, JPM/7054, JPM/7055, JPM/7056, JPM/7057 and JPM/7058.
 - 2) Unless within two months of the date of this decision a scheme for the details of the materials to be used in the construction of the external surfaces of the building hereby permitted, is submitted to the local planning authority for approval, and unless the approved scheme is implemented within six months of the local planning authority's approval, the occupation of the building hereby approved shall cease until such time as a scheme is approved and implemented.
 - 3) If no scheme in accordance with condition 2 above is approved within eight months of the date of this decision, the occupation of the building hereby permitted shall cease until such time as a scheme that has been approved by the local planning authority is implemented.

Procedural matters

2. For the sake of consistency I have used the description of development that was contained in the original application form, even though this differs from that given in the Council's decision notice.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area, having particular regard to the host property.

Reasons

The effect of the proposal on the character and appearance of the area, having particular regard to the host property

4. The appeal property lies within a block of terraced properties that are all of a similar appearance in terms of their front elevations. However, there are a variety of architectural styles within the surrounding area, and the Council considers that the rear elevations of this terrace of properties also contain a variety of styles. The proposed development is a replacement ground floor rear extension and a replacement first floor rear extension. At the time of my site visit the proposal had been commenced but not completed as the blockwork walls of the ground floor extension had been constructed, and the first floor rear extension that had previously existed had been removed.
5. The proposed ground floor rear extension would be a replacement of a previous rear extension that would be of the same depth but would be wider as it would cover almost the entire width of the rear elevation. The proposed first floor rear extension is also a replacement of a previous extension and it would be of similar depth and width as the previous extension, and would cover approximately half of the width of the property's main rear elevation.
6. The majority of the properties in this stretch of Richmond Road do have both ground floor and first floor rear extensions. The depth of the ground floor extension would match the depth of the ground floor extension at No. 53. In addition, although wider than previously, the width and height of the rear ground floor extension would be such that the extension would still appear subservient to the host property and generally in keeping with that of other rear extensions in the locality. Therefore I consider that both the scale and design of this element of the proposal would not be significantly detrimental to the character or appearance of either the area or the host property.
7. The main difference of the reasonably small scale replacement first floor extension would be the proposed use of a flat roof rather than a 'cat slide' roof. Nearly all of the first floor extensions in this stretch of terraced properties have 'cat slide' tiled roofs that adjoin the main roofs and blend in accordingly. The exception to this is the first floor rear extension at No. 47 that lies a few doors away and which has a flat roof enclosed by a parapet wall. In addition, the appellant has cited a number of flat roof dormer extensions that are located within the area.
8. The appellant contends that providing a replacement cat slide roof would result in an inadequate amount of headspace in the first floor extension, since the ground floor extension has had to be built up to a higher ground level to provide a level floor throughout the ground floor area. From the evidence of my site visit I could see that this was indeed the case, and there was a difference in levels between the replacement ground floor extension and the adjoining rear garden area.
9. The replacement first floor extension would be relatively small scale in nature and it would sit below the eaves of the main roof. Consequently it would

appear subservient to both the main property and the proposed ground floor extension. Although the proposal would mean that the first floor flat roof of No. 55 would be juxtaposed with the cat slide roof of the first floor extension of No. 53, I do not consider that this would be significantly detrimental to the character and appearance of the area. Furthermore, due to its scale and location on the rear elevation, and the fact that there are already examples of first floor and dormer extensions with flat roofs in the locality, I consider that the proposal would not be significantly detrimental to the existing character and appearance of the area nor to the host property.

10. As such I consider that the proposal would accord with retained Policy H17(C) of the Taunton Deane Local Plan, adopted November 2004, and Policy DM1(d) of the Taunton Deane Core Strategy 2011-2028, adopted September 2012, that both seek, among other matters, to ensure that developments, including extensions, do not harm the form and character of the dwelling and are subservient in scale and design.

Personal circumstances

11. The appellant has made reference to personal circumstances and the Public Sector Equality Duty. However, given my aforementioned conclusion, this matter would not be determinative and it is not necessary to consider it any further.

Other matters

12. The appellant has proposed that a parapet wall could be constructed around the perimeter of the first floor extension. However, such a proposal was not part of the original application and I have no plans before me that depict such a proposal. Therefore I have considered this appeal on the merits of the details that were originally submitted.

Conditions

13. In addition to the standard condition which limits the lifespan of the planning permission, the Council has suggested a number of conditions in the event that the appeal succeeds. I have considered these in the light of the advice contained within the Planning Practice Guidance (the PPG). In allowing the appeal I shall impose conditions accordingly, improving precision where necessary in accordance with the advice in the PPG. However, as the development has clearly already commenced I cannot impose the standard time limit condition for commencement that the Council has recommended.
14. A condition to direct that the development accords with the approved plans is required for the avoidance of doubt and in the interests of proper planning. A condition requiring details of external materials is required to ensure that the materials would accord with the character and appearance of the area and of the host dwelling. Due to the difference in external finishes between the original part of the property and the proposed extensions, and the fact that a flat roof is proposed, a materials condition requiring details to be submitted for approval, rather than one that only requires the proposed materials to match the existing, is considered necessary.
15. The purpose of conditions 2 and 3 is to require the appellant to comply with a strict timetable for dealing with the submission of the details of external materials which needs to be addressed in order to make the development

acceptable. The purpose and effect of the conditions is therefore to ensure that the occupation of the building authorised by the grant of planning permission may only continue if the appellant complies with each one of a series of requirements.

Conclusion

16. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

GP Jones
INSPECTOR



Appeal Decision

Site visit made on 21 September 2015

by **G P Jones Bsc(Hons) MA MRTPI**

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

Decision date: 12 October 2015

Appeal Ref: APP/D3315/W/15/3070027

The Barn at Baker's Field (Grid Ref - 327847, 117323), Curland, Taunton, Somerset

- 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)(England) Order 2015.
 - The appeal is made by Mr Andrew Helliar against the decision of Taunton Deane Borough Council.
 - The application Ref 15/15/0001/CMB, dated 9 February 2015, was refused by notice dated 10 April 2015.
 - The development proposed is prior approval of proposed change of use of agricultural building to a dwellinghouse (use class C3), and for associated operation development.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Andrew Helliar against Taunton Deane Borough Council. This application is the subject of a separate Decision.

Procedural matters

3. The application that is the subject of this appeal was made under the Town and Country Planning (General Permitted Development) Order 1995 (as amended). However, the 1995 Order has been superseded by The Town and Country Planning (General Permitted Development)(England) Order (GPDO) that 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 of Part 3 to Schedule 2, rather than Class MB. As such, the effect of the Interpretation Act 1978 is that anything done under the revoked Class MB now has effect as if done under Class Q. Accordingly I refer to the provisions of Class Q in reaching my decision.
4. The provisions under Class MB have been replaced by similar provisions under Class Q. However, there are slight differences between the two Orders that are of relevance to this appeal. Class Q.1(a)(ii) of the GPDO now states that: 'in the case of a building which was in use before that date but was not in use on that date, when it was last used'. Whereas Class MB.1(a)(ii) of the 1995 Order stated that: 'if the site was not in use on that date, when it was last in use'.

5. As the application is for prior approval under Schedule 2, Part 3, Class Q of the GPDO, matters such as housing land supply and use by an agricultural worker are not considered relevant and have not been given any weight.
6. For the sake of consistency I have used the description of development as stated in the application form, even though it refers to 'operation development', rather than the more customary 'operational development'.

Main Issue

7. The main issue is whether the proposed development is one which is permitted by the provisions of Schedule 2, Part 3, Class Q of the GPDO, and if so, whether prior approval should be granted.

Reasons

Whether the proposed development is one which is permitted by the provisions of Schedule 2, Part 3, Class Q of the GPDO, and if so, whether prior approval should be granted.

8. The barn that is subject to this application is in a rural location on the outskirts of the small hamlet of Curland. The barn could be accessed directly off Baker's Lane via a gated entrance, although the access used for the site visit was via the gate that lies at the junction of Baker's Lane and Muttonrib Lane. The barn lies in the northern part of a field that is enclosed on all sides by hedegrows interspersed in places with some mature trees. At the time of my site visit the barn was largely empty except for two small hay bales and an old oil drum.
9. The refusal of the prior approval now falls under the terms of Q.1(a) of the GPDO which are that the site was not used solely for an agricultural use as part of an established agricultural unit on 20th March 2013, and in the case of a building which was in use before that date, but was not in use on that date, when it was last in use.
10. The appellant does not provide any evidence that the site was in agricultural use on 20 March 2013, and it is stated in the appellant's Final Comments that the field was used by the appellant's family prior to 2004 for the production of hay. The appellant claims that the site is part of the New England agricultural unit, agricultural holding number 36/267/9001, and has been previously been in agricultural use and has not been used for any other purposes since. A number of livestock movement records have been provided by the appellant to support this case. However, these movement records would seem to relate to the overall agricultural unit of New England and not specifically to this field, now known as Baker's Field, within which the barn is located.
11. A number of people have disputed the appellant's assertion and instead contend that this field, which contains the barn and its curtilage, has never been in established agricultural use. However, on the balance of

probability I consider that the field within which the barn is located has been used at some time in the past for an agricultural use, and it has not been used for any other purpose since this last agricultural use.

12. The appellant contends that the barn was constructed in 2008 and this has not been disputed by any other of the parties. The appellant has not provided any evidence to confirm that the barn was in agricultural use on 20 March 2013. However, the appellant contends that here have been times since its

construction when the barn has been used for the storage of straw and as such has had an agricultural use as its last use prior to 20 March 2013.

13. Although not specifically referred to in the Council's decision notice, the officer's report and a number of representations from both Neroche Parish Council and members of the public, to both this and previous applications, claim that the barn building has been boarded up ever since it was constructed in 2008 and has never been used. Minutes have been provided of an Extraordinary Meeting of Neroche Parish Council in August 2014 in which the appellant is reported as confirming that the barn has never been used to house animals or agricultural equipment.

14. The appellant has not provided any specific evidence to demonstrate that the barn was ever brought into an agricultural use or any other use. The photographs contained in Appendix 1 of the appellant's Final Comments show the barn to be boarded up and both the barn and the immediately surrounding area to be in a broadly similar condition to that when I conducted my site visit. On my site visit I observed that there was no clear evidence of farm machinery tracks leading to this barn and I also noted that the boarding was relatively easy to remove. Despite the presence of two small hay bales, the barn did not have the appearance of having ever been used for any agricultural purpose.

15. Given the conflicting information I have referred to above, together with the paucity of substantive evidence before me, I am unable to conclude that the appeal building was used for an agricultural use as part of an established agricultural unit, when last in use before 20 March 2013. As such, the proposal would fail to satisfy the requirements of paragraph Q.1(a)(ii) and therefore it would not be permitted development under Class Q.1(a) of the GPDO.

16. As regards the matter of the installation of the two proposed dormer windows in the front (southern) elevation of the building, I consider that these would have the effect of extending the external dimensions of the building beyond the external dimensions of the existing building, and as such would not accord with Q.1(g) of the GPDO. The appellant contends that these dormer windows would not increase the floorspace of the building. However, the test required in Q.1(g) of the GPDO specifically refers to the external dimensions of the building and not the floorspace. I note the appellant's proposal that a planning condition could be imposed to ensure that rooflights rather than dormer windows would be installed. However, such a proposal is not

indicated on any of the plans that are before me for consideration and in reaching my decision I have only considered the scheme that has been proposed.

17. The Council did not refuse the proposal on the grounds of the criteria detailed in Q.2(1) (a) to (f) inclusive of the GPDO as it only considered the matters pertaining to Q.1(a). As I am dismissing this appeal for other reasons I have also not considered the proposal in terms of the criteria contained within Q.2(1) (a) to (f) inclusive of the GPDO.

Conclusion

18. For the above reasons, and having regard to all other matters raised, I conclude the appeal should be dismissed.

GP Jones

INSPECTOR

APPEALS RECEIVED

Site: 19 ARDWYN, WELLINGTON, TA21 8BW

Proposal: ERECTION OF A TWO STOREY AND SINGLE STOREY EXTENSION
TO THE REAR OF 19 ARDWYN, WELLINGTON

Application number: 43/15/0090

Appeal reference: APP/D3315/D/15/3135974
