
Appeal Decision

Site visit made on 27 November 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 19th December 2017

Appeal Ref: APP/X1118/W/17/3180874

Leigh Farm Barns, Leigh Farm, Leigh Road, Chulmleigh, Devon

- 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, Paragraph Q.2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Ms Lucy Warren against the decision of North Devon District Council.
 - The application Ref 62566, dated 12 January 2017, was refused by notice dated 20 April 2017.
 - The development proposed is described as “change of use of existing barns and courtyard to residential (approval of building details). Consent for conversion to two dwellings previously approved”.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms Lucy Warren against North Devon District Council. This application is the subject of a separate decision.

Procedural Matters

3. The application was made under Article 3 and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO) (hereafter referred to as Class Q). This permits 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 (dwellinghouses) of the Schedule to the Use Classes Order; and (b) building operations reasonably necessary to convert the building.
4. Permission under Class Q is conditional upon the developer first applying to the local planning authority for a determination as to whether its prior approval would be required as to the matters set out in paragraph Q.2(1)¹. However, paragraph W(3) explains that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with any conditions, limitations or restrictions specified as being applicable to the development in question.

¹ All paragraph references hereafter relate to paragraphs within Schedule 2, Part 3 of the Order.

5. The prior approval process is set out in paragraph W(11). This gives local planning authorities 56 days following the date on which the application is received to notify the applicant as to whether prior approval is given or refused. The appellant argues that notification took place outside this period, meaning that the development can go ahead. However, Article 7 of the GPDO allows for "such longer period as may be agreed by the applicant and the authority in writing". It is evident from the agent's email of 2nd April 2017 that an extension of time was agreed and that the decision was issued within this timeframe.
6. The parties have been given the opportunity to comment on whether the proposal would comply with paragraph Q.1(g). This was not cited on the decision notice but is nonetheless relevant to the main issue.

Main Issue

7. The main issue is whether the proposal would constitute permitted development under Article 3 and Schedule 2, Part 3, Class Q of the GPDO.

Reasons

8. The wording of Class Q allows for an application to be made for development under Class Q(a) together with development under Class Q(b). However, it is also possible to make an application for development under Class Q(a) only. The barns have already been granted prior approval for change of use to form two dwellinghouses under Class Q(a). This decision was issued at appeal².
9. As explained by the previous Inspector, Class Q(a) and Class Q(b) are not separate stages of prior approval, and no provision is made for a Class Q(b) application only. Hence, where building operations are reasonably necessary to convert the building it will be necessary at some point to make an application under both Class Q(a) and Class Q(b).
10. Where approval under Class Q(a) is given on its own, as in this particular case, it does not automatically follow that a subsequent application including details of building operations should be approved. In other words, an approval under Class Q(a) does not establish the principle of development.
11. For the avoidance of doubt, the application before me is seeking approval under Class Q(a) and Class Q(b). I have dealt with the appeal on that basis. In order to secure prior approval the proposal must comply with all of the criteria set out in paragraph Q.1.
12. The Council contends that the proposal would fail to comply with paragraph Q.1(i). This states that development under Class Q(b) is not permitted if it 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 servicesto 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).

² APP/X1118/W/16/3146607

13. The proposal is to convert a U-shaped grouping of barns to a pair of dwellings. The northern barn (Barn 3) is predominantly constructed in stone. It is overgrown and presently has no roof or roof structure. The southern barn (Barn 1) has two levels and is constructed off a timber frame, with some internal concrete partitions and stone outer walls. This building has a pitched, corrugated sheet roof. The eastern barn (Barn 2) appears more modern, being constructed of blockwork with a shallow mono-pitched, corrugated sheet roof.
14. Advice on the interpretation of Class Q is contained within paragraph 105 of the Planning Practice Guidance (PPG). This explains 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.
15. The appellant has provided a report from a structural engineer which concludes that the barns are in suitable condition for conversion in structural terms. The Council challenges the findings of the report, which recommends replacement roof structures for all three buildings. Whilst it is theoretically possible that some or all of the roof timbers for Barns 1 and 2 could be retained, Barn 3 would require an entirely new roof structure to support the natural slate covering.
16. I have seen nothing to make me question the structural integrity of the stone walls for Barn 3. From my observations they appeared sound, as did the stone plinth upon which the barn sits. Some masonry repair would be required at the tops of the walls where individual stones have become loosened through exposure to the elements. However, I would not deem these works structural.
17. What is more contentious is the extent of the works required to install the roof. The condition of Barn 3 is such that the vast majority of the fabric above the window heads would be new and this would include a completely new timber roof structure. These works would be significant and in my judgement they would take the scheme beyond the scope of a conversion.
18. I agree with the Council that there is a clear distinction to be made between a new roof, for which paragraph Q.1(i) allows, and a new roof structure. The latter is quite clearly a structural element which is required to support the weight of the roof itself. This lends weight to my overall finding that the building operations proposed for Barn 3 are incompatible with the Class Q permitted development right.
19. Paragraph Q.1(g) states that development is not permitted under Class Q if it would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. This is an objective assessment based upon comparison of the existing and proposed plans, and must take into account enlargements to the building in all three dimensions.
20. Barn 2 is shown on the proposed plans as having a new dual-pitched roof which would be taller than the current mono-pitched structure. An entrance lobby would be constructed between Barns 2 and 3 in order to link the buildings together and enable them to function as a single dwelling unit. This lobby would fall completely outside of the existing building envelope. It is clear, having regard to the plans, that the appeal scheme would conflict with paragraph Q.1(g). Thus,

regardless of my conclusions on the matters disputed by the Council, the proposal cannot be permitted development under Class Q.

Other Matters

21. The Council has already granted prior approval for conversion of the barns to one dwelling under the former Class MB(a)³. I do not have full details of this application but it is apparent that the Council did not have an opportunity to consider whether the proposed building operations would comply with paragraphs MB.1(g) and MB.1(i). A further application under Class MB(b) would have been required. I therefore find no grounds for the suggestion that the principle has been established, or that the local planning authority has been inconsistent. There is no fallback position for me to consider.

Conclusion

22. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should fail.

Robert Parker

INSPECTOR

³ Class MB(a) of the GPDO 1995, as amended, was superseded by Class Q(a) of the GPDO 2015