



---

## Appeal Decision

Site visit made on 1 July 2019

**by Nicola Davies DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 July 2019**

---

**Appeal Ref: APP/Z1510/W/18/3218086**

**Stock Street Barns, Stock Street Farm, Coggeshall, Essex CO6 1NX**

- 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) (Amendment) Order 2018.
  - The appeal is made by Mr Christopher Hill against the decision of Braintree District Council.
  - The application Ref 18/01194/COUPA, dated 17 June 2018, was refused by notice dated 21 August 2018.
  - The development proposed is conversion of buildings to provide 5 residential units.
- 

### Decision

1. The appeal is dismissed.

### Background

2. The application for prior approval was made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2015 (the Order) and would involve the change of use of four agricultural barns to 5 dwellings, with associated operational development. Class Q grants deemed planning permission (permitted development [PD] rights) for the change of use of agricultural buildings and land within their curtilages to dwellinghouses subject to criteria.
3. On the 25 May 2019 the Town and Country Planning (Permitted Development, Advertisement and Compensation Amendments) (England) Regulations 2019 brought into force an amendment to the 2015 Order. Both parties have been given the opportunity to comment on this amendment. As this prior approval would comply with the amendment, the amendment to the Order does not raise any additional implications with respect of this appeal.
4. In considering the appellant's application the Council issued their determination to the applicant (now the appellant) by email outside of working hours on 21 August 2018 that the proposal would not constitute permitted development under Class Q. The notification of that decision was made after the expiry of the 56 day period for determination of prior approval applications as the decision was issued post normal working hours on 21 August. However, the judgement in *Patrick Keenan v Woking Borough Council* and the Secretary of State for Communities and Local Government [2017] EWCA Civ 438 has confirmed that if a development would not be PD, then permission cannot be

deemed to have been granted under the Order as a consequence of the failure to issue a prior approval determination in time.

### **Main Issue**

5. The main issue is whether the change of use would be PD under Class Q (b), (c) and (m) of the Order.

### **Reasons**

6. The appellant in support of his application for Prior Approval provided a Planning Statement that assessed the proposed change of use against the Class Q criteria set out in the Order and concluded that the criteria were satisfied. To support the proposal the appellant has provided plans of the existing barns and resulting development that have measurements annotated on the plans.
7. The criterion of Class Q.1.(b) (bb) of the Order states that development is not permitted if the cumulative floor space either of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q would exceed 465 square metres. The Council considers that existing barns B and C that are proposed to be changed to three larger dwellinghouses would cumulatively exceed 465 square metres. Having regard to the evidence available to me I would concur with this view that existing barns B and C to be changed to larger dwellings would exceed 465 square metres in floor area. As such, the criterion of Class Q.1.(b) (bb) of the Order would not be met.
8. Criterion of Class Q.1.(c) (bb) of the Order requires development not to be permitted if the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouse) of the Schedule to the Use Classes Order exceeds 100 square metres. The Council considers in respect of barn D, the floor space of the larger dwellinghouse would exceed 100 square metres and thus fails to meet this criterion. From the information before me I cannot say conclusively one way or the other whether the size of the resulting dwellinghouse would exceed 100 square metres. In the event I cannot say with any certainty that the criterion of Class Q.1.(c) (aa) of the Order would be met that limits the cumulative number of separate larger dwellings developed under Class Q to three.
9. With regard to the criterion of Class Q.1.(m) of the Order development is not permitted if the building is a listed building. The Council consider that the barn buildings are ancillary buildings which were not only historically associated with the farm, but which were also associated with the listed farmhouse when it was listed in 1988. It is, therefore, suggested that the barns form part of the same planning unit and are thus curtilage listed.
10. It was clear to me at my visit that the barns have an agricultural function that is distinct from the domestic use of the farmhouse and the timber barn buildings situated nearby the farmhouse that physically separate the farmhouse from the barns. Whilst there is an existing access that links the farmhouse with the barns, the barns have their own independent access. The barns are also in a different ownership.
11. I have not been provided with any substantive detail that would enable me to determine the relationship of the barns and farmhouse at the time of the listing. Whilst the Council advise that three of the buildings were there at the

time of the listing, it has not been indicated which buildings these were. At this point in time it does not appear to me that the barns are intrinsically linked with the farmhouse, either functionally or physically. Furthermore, I cannot be certain that the barns were subordinate to, and dependant on, the farmhouse at the time of the listing. On the available evidence it does not appear to me that the barns would be curtilage listed.

12. I therefore conclude that the development would not be PD under Class Q.1.(b) (bb) of the Order as the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses exceeds 465 square metres. Given that conclusion the fact that the Council issued its determination after the 56 day period had expired is of no consequence.
13. For the reasons given above the appeal is dismissed.

*Nicola Davies*

INSPECTOR