



Appeal Decision

Site visit made on 4 August 2020

by Rachael Pipkin, BA (Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2020

Appeal Ref: APP/Y1138/W/20/3252641

Barn at Marchweeke Farm, Road from Thelbridge Cross to Doctors Corner, Witheridge, EX16 8NY

- 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 Rebecca Preece against the decision of Mid Devon District Council.
 - The application Ref: 20/00153/PNCOU dated 28 January 2020, was refused by notice dated 31 March 2020.
 - The development proposed is prior approval application for the conversion of an agricultural building to residential dwelling (C3) under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of an agricultural building to residential dwelling (C3) at Barn at Marchweeke Farm, Road from Thelbridge Cross to Doctors Corner, Witheridge, EX16 8NY in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph Q.2 (1) of the 2015 GPDO through application Ref 20/00153/PNCOU, dated 28 January 2020. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3) of the GPDO and subject to the following additional conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 13148_001 Rev A, 13148_0010 Rev A, 13148_011 Rev A, 13148_002, 13148_003, 13148_004, 13148_005, 13148_008 and 13148_009.
 - 2) Prior to the occupation of the proposed development, a section of the barn to the north of the site shall be demolished and the remaining barn, as annotated on plan Ref: 13148_011 Rev A, shall be used for the storage of machinery, straw and fodder stocks only. It shall be retained in this use thereafter.

Application for costs

2. An application for costs was made by Rebecca Preece against Mid Devon District Council. This application is the subject of a separate Decision.

Procedural Matter

3. As part of the appeal, the appellant submitted amended drawings showing the existing and proposed site plans. These drawings do not indicate any changes to the appeal scheme but provide additional detail about the existing and proposed site layouts. As this is the provision of additional detail, I am satisfied that no party would be prejudiced by my taking the amended plan into account in my determination of this appeal and I am proceeding on that basis.

Background and Main Issue

4. Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) 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/houses) of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended and any building operations reasonably necessary to convert the building. There is no dispute between the main parties that the proposal meets the requirements of paragraph Q.1. and therefore, that it constitutes permitted development under Class Q, subject to the prior approval of certain matters.
5. Paragraph Q.2.(1) lists conditions under which the development must apply to the local planning authority for a determination as to whether prior approval will be required as to the impact of the development on various matters. The Council's decision notice indicates that prior approval was refused in respect of (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3. There is no dispute between the parties in respect of other matters.
6. Therefore, the main issue is whether or not the location and siting of the building would make it otherwise impractical or undesirable to change to a residential use for reasons relating to the impact on the living conditions of future occupiers with particular regard to noise, smell and disturbance.

Reasons

7. The appeal building is a large agricultural barn, located at the far end of the access through the cluster of buildings forming Marchweeke Farm. Beyond the appeal building there is a gated access to an open field. It directly adjoins a single-storey barn used for animal holding, wood and other storage and is surrounded by agricultural fields.
8. The appeal proposal would include the partial demolition of the adjoining barn and a wood store to create a hardstanding and to facilitate the conversion of the appeal building into a dwelling. This would create a gap between the appeal property and the remaining active farm buildings, indicated to be around 5 metres wide at its narrowest point and 9 metres wide.
9. The gap created between the proposed dwelling and the retained buildings would not be significant. Due to their proximity, if used for the storage of livestock, there would be some noise, smell and possible fly nuisance for future occupants from any livestock kept within these buildings. I note this was a concern raised by the Council's public health officer.

10. The appellant has suggested a restrictive condition to control the use of the adjacent building so that it could only be used for the storage of machinery or fodder stocks. With the use of the adjacent barn restricted, the nearest barn which could be used for livestock would be some distance from the proposed dwelling and any noise, smell or fly disturbance would be significantly reduced. Moreover, it would also be screened by the retained storage building which would further reduce any nuisance that may arise.
11. The Council has taken a similar approach in other prior approval cases including at Pinkworthy Farm¹, Garlandhayes Farm² and Lodge Farm, Thorverton³. The Lodge Farm permission was granted after the refusal of the scheme before me. From the details provided, whilst the circumstances are not identical, it appears that the proposed dwellings in these schemes are a similar distance, and in some cases closer, to remaining agricultural buildings restricted to storage purposes only. It therefore seems to me that the effect on the living conditions of occupiers in these approved schemes would not be dissimilar to that of the proposal before me.
12. I consider such a condition would be reasonably related to the subject matter of the appeal. It would also meet the tests as set out in paragraph 55 of the National Planning Policy Framework (the Framework). In applying a similar condition to the aforementioned permissions, it seems the Council must also have previously found this to be the case. However, the Council has raised a concern about the enforceability of the condition, in particular if the building is used sporadically for the storage of livestock which would make enforcement related investigations impractical. Whilst this could happen, I am not of the view that it would be practical for a building set up for fodder and machinery storage purposes to be used to house livestock nor would it be necessary given other buildings on the site. Furthermore, resourcing constraints to undertake such investigation is a matter for the Council and is not a reason why such a condition would not be enforceable.
13. My attention has been drawn to an appeal at Heath Farm in Torridge District⁴, where the Inspector found that a condition requiring the cessation of use of the adjacent building for livestock purposes could result in pressure to erect a replacement livestock building elsewhere on the holding and within the open countryside. However, I have no substantive evidence before me that this would be the case here. Indeed, I observed a substantial barn on the site, which could provide storage space for livestock. For this reason, I also do not find the scheme would compare to a recently refused prior approval⁵ at Southcombe Farm where only a modestly size building would be retained on the farm for the storage of livestock.
14. Turning now to the effect of farm vehicle movements on the living conditions of future occupants. Due to the layout of the farm and the position of the appeal building away from the farmyard, any vehicles accessing the site and retained barns would not need to pass in front of the proposed dwelling other than to access the field. It seems to me that whilst there would be some vehicle movements associated with this field access, the majority of this activity would

¹ Council Ref 19/02076/PNCOU

² Council Ref 19/02048/PNCOU

³ Council Ref 20/00244/PNCOU

⁴ APP/W1145/W/17/3172385

⁵ Council Ref 19/01673/PNCOU

be away from the proposed house. Consequently, it would be unlikely to give rise to unacceptable noise and disturbance to future occupiers.

15. On this basis, I find that the location and siting of the building would not make it impractical or undesirable to change to a residential use for reasons relating to the impact on the living conditions of future occupiers with particular regard to noise, smell and disturbance.

Conditions

16. Paragraph Q.2(3) specifies that development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date. I have attached a condition requiring the development to be carried out in accordance with the approved plans, in the interests of certainty. I have also imposed a condition restricting the use of the adjacent barn as referred to earlier in my decision.

Conclusion

17. For the reasons set out above, I conclude the appeal should be allowed.

Rachael Pipkin

INSPECTOR