
Appeal Decision

Site visit made on 19 October 2020

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2020

Appeal Ref: APP/U1105/W/20/3253451

Land west of Tale Head Cottage, Payhembury, Devon, EX14 3HL.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mrs Maria Hazell against the decision of East Devon District Council (the LPA).
 - The application Ref. 19/2650/PDQ, dated 28 November 2019, was refused by notice dated 10 February 2020.
 - The development proposed is prior approval for proposed change of use of agricultural building to form 5 dwellings (Use Class C3) and associated operational development.
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Decision

1. The appeal is allowed. 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)¹, for the change of use of an agricultural building to form 5 dwellings (Use Class C3) and associated operational development at land west of Tale Head Cottage, Payhembury, Devon, EX14 3HL. The approval is granted in accordance with the details and plans submitted pursuant to Schedule 2, Part 3 Paragraph Q.2(1) of the GDPO through application Ref. 19/2650/PDQ, dated 28 November 2019 and subject to the condition that the development must be completed within a period of three years from the date of this decision in accordance with paragraph Q.2(3) of the GDPO.

Preliminary Matter

2. A Unilateral Undertaking (UU) was submitted with the application. This includes a financial contribution to mitigate the impact of the development upon the Pebblebed Heaths Special Protection Area. However, the Government's Planning Practice Guidance advises that planning obligations should concern matters requiring prior approval and Regulation 122(1) of the Community Infrastructure Levy Regulations 2010 does not apply to prior approval determinations. I am unable therefore to take the UU into account.

Main Issue

3. The main issue is whether the proposal accords with the provisions of Schedule 2, Part 3, Class Q of the GDPO, having particular regard to the extent of the proposed works.

¹ The GDPO.

Reasons

4. The appeal building is a late 20th century former livestock shed. This sizeable pitched roof building is of a portal frame construction with steel beams and reinforced concrete posts. Part of the floor is concrete and the roof is clad in profiled cement sheets. The blockwork walls have horizontal and vertical 'hit and miss' timber boards and the central section of the east elevation is open.
5. The proposal would involve retaining the existing wall cladding and roof sheets. To satisfy Building Regulations, the appellant's agent has informed me that a vapour barrier and non-structural insulated stud walls would need to be fixed between the existing concrete posts and the timber cladding. Other building operations would include the installation of windows and doors, part infilling of the central section in the east elevation and a new section of concrete floor.
6. The proposed works would take place entirely within the 'footprint' of the existing shed. The appellant's agent has also informed me that there would be no demolition (partial or otherwise). I note from the annotation on the submitted drawings that the existing walls are "*structurally capable of conversion*" and the planning officer's report, amongst other things, states that "*the building appears to be of reasonably sound construction*". I see no reason to disagree with these assessments.
7. I note the Council's concerns over the extent of the proposed building operations and the ruling in Hibbitt². However, the scope of building operations allowed under Class Q of the GDPO is quite extensive and the scale and extent of the building operations in the appeal before me would be reasonably necessary for the building to function as five dwellings. Moreover, unlike the situation in Hibbitt, the appeal building is not open on three sides and the proposal does not involve substantial rebuilding.
8. Both main parties have drawn my attention to appeal decisions involving Class Q development elsewhere. These include a recent decision at Holcombe Rogus³. Each case must be determined on its own merits and no two buildings are exactly the same⁴. The nature and extent of the proposed building operations in these other appeals appears to be materially different to what is before me. These other decisions do not set a precedent that I must follow.
9. The Local Highway Authority has found that the traffic associated with the development would be no greater than the permitted agricultural use of the building. Whilst one of the units would be very small, Class Q permitted development rights are an important part of the Government's reforms to the planning system and its objective of boosting significantly the supply of homes. Some of the proposed bedrooms would only be lit by high level rooflights but there is nothing to indicate these rooms would have inadequate natural light.
10. I conclude that the proposal accords with the provisions of Class Q, Part 3, Schedule 2 of the GDPO. The appeal should therefore succeed.

Neil Pope

Inspector

² Hibbitt and another V Secretary of State for Communities and Local Government [2016] EWHC 2853 (Admin).

³ APP/Y1138/W/19/3231918.

⁴ I note that the barn at Holcombe Rogus was open fronted on one side and the works included a new glazed wall.