



Appeal Decision

Site visit made on 9 August 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 October 2022

Appeal Ref: APP/Y1138/W/22/3293932

The Barton, Road From Poughill Cross To Leys Cross, Poughill EX17 4LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr and Mrs P & A Wander against the decision of Mid Devon District Council.
 - The application Ref 21/01805/PNCOU, dated 9 September 2021, was refused by notice dated 4 November 2021.
 - The development proposed is prior notification for the change of use of an agricultural building to 1 dwelling under Class Q(a) only.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs P & A Wander against Mid Devon District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have taken the description of development in the banner heading above from the Appeal Form provided by the appellant, which more clearly describes the proposal than the description used in the Application Form.
4. After the close of final comments, a further appeal decision¹ (the Thaxted appeal) was submitted by the appellant. Advice in the Planning Inspectorate's 'Procedural Guide – Planning Appeals – England' is that information submitted outside of the normal time limits will usually be disregarded unless there are exceptional circumstances. Such circumstances may include another relevant appeal decision, recently decided. This is the case here, and so I have taken it into account, along with the subsequent comments from the main parties.

Main Issues

5. Under Article 3(1) and Schedule 2, Part 3, Class Q of the General Permitted Development Order (GPDO), planning permission is granted for the conversion of agricultural buildings to dwellinghouses subject to limitations and conditions. The Council refused to grant prior approval under Paragraph Q2(1)(e) and whether the location or siting of the barn the subject of this appeal (the Appeal

¹ APP/C1570/W/21/3282677

Barn) makes it undesirable for it to change to a dwellinghouse. The appellant considers that Q2(1)(e) does not fall to be considered at this stage.

6. The requirement under S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBC Act), to have special regard to the desirability of preserving a listed building or its setting, only applies to applications for planning permission. In this case, planning permission has already been granted by Article 3(1) of the GPDO, subject to prior approval.
7. Nevertheless, I share the view of my colleague in the Thaxted appeal that, where the prior approval matters include siting or location, as Q2(1)(e) does, then the impact of a proposal on the setting of a listed building will need to be taken into account.
8. Accordingly, the main issues are:
 - Whether condition matters Q2(1)(a) to (e) and (g) (the Q2 conditions), in particular Q2(1)(e), fall to be considered now; and
 - If so, whether the location or siting of the barn the subject of this appeal (the Appeal Barn) makes it undesirable for it to change from agricultural use to a use falling within Class C3, with regard to the setting of heritage assets including The Barton and associated buildings.

Reasons

Whether the Q2 conditions fall to be considered now

9. The proposal is made under Class Q(a) of the GPDO for a change of use of the building to a dwellinghouse. The word 'convert' (upon which *Hibbitt v SSCLG*² hinges) is only included in Paragraph Q(b) of the GPDO. As such, as found by the Inspector at Whimple³ (the Whimple appeal), whether the proposal amounts to a conversion is not for consideration as part of this appeal.
10. However, Paragraph Q2(2) of the GPDO makes clear that, where proposed under Class Q(a) only, development is permitted subject to the condition that the prior approval of the Local Planning Authority will be required for items referred to by the Q2 conditions, and that the provisions of paragraph W (prior approval) apply in relation to that application.
11. The appellants believe this refers to a future Class Q(b) application and that Q2 conditions matters do not fall to be considered during a Class Q(a) only proposal. My attention has been drawn to various appeal decisions. At the Great Burton appeal⁴, the Inspector ruled that the permitted development right can consist of either Class Q(a) or Q(b) independently. At Whitchurch⁵, the Inspector granted prior approval under Class Q(a) where the change of use was acceptable, even though the building operations proposed did not comply with Class Q(b).
12. I do not disagree with the findings of my colleagues that the two parts are separate and that approval under Class Q(a) does not prejudice a subsequent Class Q(b) application in respect of building operations. However, these

² [2016] EWHC 2853

³ APP/U1105/W/20/3255904

⁴ APP/C3105/W/20/3264358

⁵ APP/H1705/W/21/3275273

decisions did not turn on matters relating to the Q2 conditions, and so they do not demonstrate that these are not applied at Class Q(a) stage.

13. Paragraph Q2(2) refers back to paragraph Q2(1) in respect of the Q2 conditions. In my view, the exclusion of sub-paragraph Q1(f) from matters to be assessed suggests that Class Q(a) encompasses proposals that only require internal works, where Q1(f) relating to external appearance would be unnecessary. The reference at Q2(3) to the time limits of completion of proposals referring to those 'under Class Q(a), and under Class Q(b), if any' (my emphasis) supports this view.
14. If it were the case that the Q2 conditions should be left to Q(b) stage, and that the purpose of applications such as that here were just to determine compliance with the Q1 criteria, there would be no opportunity for matters covered by the Q2 conditions to be assessed for proposals that did not involve external building operations. It seems to me very unlikely that this was the intention of the legislation.
15. It is more logical that the term 'that application' in Paragraph Q2(2) refers to an application made under Class Q(a), as here, rather than to a future Class Q(b) application, which may never be required. Indeed, I note that Q2 condition matters were assessed as part of the Class Q(a) only Whimble appeal referred to by both parties. I therefore conclude that the Q2 conditions, in particular Q2(1)(e), fall to be considered now.

The effect on heritage assets

16. The appeal site is a farmyard with a complex of buildings. At its core, The Barton is a large farmhouse dating from c1830. It is listed at Grade II and is the only building referred to in the list description. However, Section 1(5) of the LBC Act makes clear that any structure within the curtilage of the building which forms part of the land, and has done so since before 1st July 1948, is treated as part of the building, and so is curtilage listed.
17. It is common ground that the Appeal Barn post-dates 1948, and so is not curtilage listed. However, other buildings within the complex, which are close to and surround the Appeal Barn, include a Cart Barn, Calving Barn and Hall House, all of which pre-date 1840 and so are curtilage listed. Their significance is their age and surviving historic fabric, and their agricultural design and appearance.
18. The Appeal Barn is also visible from Poughill and its listed Church (Grade I) and Vicarage (Grade II), which have significance in forming part of the rural and historic character of the village, and from where the Appeal Barn appears as part of a collection of farm buildings. The Appeal Barn has a modern but simple, semi-open design, reflecting its agricultural surroundings. As such, it has a neutral effect on the nearby heritage assets.
19. I have few details of the proposed works to convert the building, but it is common ground that some alteration to the building will be necessary to allow for residential use. Such works may re-use existing materials and involve a reduction in the built form and footprint of the Appeal Barn. It is therefore possible that the high status of The Barton within the hierarchy of the complex as a whole would not be challenged by the proposal, as I understand was the case with the holiday uses approved nearby. Simply by being within a certain

distance of a heritage asset does not by itself mean that a proposal causes harm.

20. However, inherent in the proposal is the infilling of existing openings, the installation of domestic doors and windows, and the creation of residential paraphernalia within any outdoor recreational space such as washing lines and children's play equipment. As a result, irrespective of the specific form or design of the proposal, residential use of the Appeal Barn and the physical changes necessary to achieve the use would result in the building having a domestic, residential appearance. This would diminish and conflict with its deeply rural, agrarian setting.
21. The Appeal Barn is below and behind The Barton, being physically separated and hidden from it by the Calving Barn. As such, the proposal would have little effect on The Barton itself or its setting. However, the location and position of the Appeal Barn means that the change of use, and the physical changes that would flow from it, would have a negative effect on the sensitive agricultural and rural setting of the heritage assets that surround the Appeal Barn, identified above, and the setting of the Church and Vicarage.
22. Such harm would be less than substantial in terms of the National Planning Policy Framework (the Framework). Nevertheless, I am required by the Framework to give great weight to such harm. I have weighed this harm against public benefits, and I am mindful that the permitted development right has been created for the purpose of increasing the supply of housing. However, due to the proposal being for only a single dwelling, such benefits would be limited. This benefit does not therefore outweigh the harm that I have identified.

Conclusion

23. I therefore conclude that the location and siting of the Appeal Barn makes it undesirable for it to change from agricultural use to a use falling within Class C3, with regard to the setting of heritage assets. For the reasons given above, and taking into account all other matters raised, the appeal is therefore dismissed.

O Marigold

INSPECTOR