



---

## Appeal Decision

Site visit made on 15 November 2022

**by C Shearing BA (Hons) MA MRTPI**

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

**Decision date: 21 December 2022**

---

**Appeal Ref: APP/X1545/W/21/3286141**

**Oak Nursery, Hackmans Lane, Purleigh CM3 6RJ**

- 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 Mr Coverley against the decision of Maldon District Council.
  - The application Ref COUPA/MAL/21/00712, dated 2 July 2021, was refused by notice dated 27 August 2021. The development proposed is conversion of an agricultural building into a dwelling.
- 

### Decision

1. The appeal is allowed and approval granted under the provision of Schedules 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) for conversion of an agricultural building into a dwelling at Oak Nursery, Hackmans Lane, Purleigh CM3 6RJ in accordance with the details submitted, subject to the following condition:
  - 1) Prior to any works associated with the replacement of external materials, details of the new materials to be used on the external faces of the building shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

### Application for Costs

2. An application for costs was made by Mr Coverley against the decision of Maldon District Council. This application is the subject of a separate decision.

### Background and Main Issue

3. Under Article 3(1) and Schedule 2, Part 3, Class Q, of the GPDO, planning permission is granted for 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; or (b) development referred to in (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule. This is subject to the specified limitations and conditions.
4. Schedule 2, Part 3, Paragraph W(3) of the GPDO states that the local planning authority may refuse a prior approval application where the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed

development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval.

5. The main issues are:

- whether the proposed development is permitted development, with particular regard to whether the requirements of Class Q.1(h) would be met, and;
- if so, whether or not prior approval should be granted in accordance with the conditions set out in paragraph Q.2(1).

## **Reasons**

### *Whether the proposal would be permitted development*

6. The proposal relates to an agricultural building which forms part of a wider nursery. The building that is the subject of this appeal has two main roof areas, comprising a pitched roof to the main part of the building, and a flat roof with a gentle slope to the side. The pitched roof currently comprises corrugated metal sheeting which is supported internally by a network of wooden batons, which in turn are set above a larger framework of metal beams.
7. The parties do not dispute that the works to the roof can be considered as reasonably necessary to facilitate the change of use. Class Q of the GPDO allows for the replacement of the roof, provided that the development would not result in the external dimensions of the building extending beyond those of the existing building at any given point. The proposals entail the installation of interlocking tiles to the pitched sections of the roof. The supporting plans suggest these would be installed on batons and detailed sections of the existing and proposed roof profiles have been provided.
8. The section drawings show the tiles would be capable of being installed to the same level and pitch as the existing, which would result in the external dimensions of the building extending no further than the existing profile of the roof. Given the existing frame of wooden and metal supports within the roof, and in the absence of substantive evidence to the contrary, I find that the new roof could be adequately accommodated without raising the height of the roof.
9. It is apparent from the photographs provided by the Council that, at the time of that site visit, the main roof was in a different condition and included disfigured and uneven metal sheeting, which has since been made good. While the existing corrugated metal sheeting incorporates grooves, which would be replaced with a more level surface of tiling, I find this would not constitute a breach of the external dimensions. Furthermore, even if additional supports were required to be installed inside the roof slopes, or parts of the roof needed to be replaced, this would fall within the allowances of Class Q.
10. For these reasons, the proposal would satisfy the requirements of Class Q and would therefore be development permitted by it.

### *Prior approval*

11. The Council accept in its appeal statement that prior approval would not be required in respect of: transport and highways impacts, noise impacts, flooding risks, or the design or external appearance of the building. Based on the

evidence before me and the findings of my site visit, I concur that prior approval would not be required in respect of these matters.

12. The Council has raised the issue of contamination risks from asbestos, surface water run-off and foul drainage. However, there is no evidence to justify these concerns and prior approval is not required with regard to these matters.
13. The Council do not explicitly state that prior approval would not be required in respect of whether the location and siting makes it otherwise impractical or undesirable for the change of use, as required by the GPDO. However, it is clear from their officer report that no concerns were raised on this matter. Given the surroundings and the neighbouring uses, the location and siting would not make the proposed dwelling impractical or undesirable.
14. In respect of the provision of natural light to all habitable rooms, it is clear from the supporting plans that the dwelling would be served by a number of windows, including tall windows to all habitable rooms. Prior approval would therefore not be required in this respect.

### **Other Matters**

15. I have had regard to the concerns raised by third parties, including that the existing building is not capable of conversion. Based on the evidence and findings of my site visit, I conclude that the agricultural building is capable of functioning as a dwelling, in line with the guidance contained in the Planning Practice Guidance (PPG) and that the proposed works are those reasonably necessary for the change of use. The PPG is also clear that the permitted development right does not apply a test in relation to sustainability of location.
16. The site is situated within the 22km zone of influence for the Blackwater Estuary Special Protection Area (SPA) and Ramsar site. Adopting a precautionary approach, through providing a new dwelling, the proposal could have a likely significant effect on the SPA and Ramsar site through increasing visitors to it. Regulation 75 of the Conservation of Habitats and Species Regulations 2017 provides that it is a condition that any planning permission granted by the GPDO, which is likely to have a significant effect on such sites and which is not directly connected with or necessary to the management of the site, must not begin until the developer has received written notification of the approval of the local planning authority under Regulation 77.
17. I do not have evidence before me that the Regulation 77 process has been followed or this pre-commencement condition imposed under Article 3(1) pursuant to Regulation 75 has been complied with. Despite this, the Regulation 77 application may be submitted and approved after prior approval is given for the development.

### **Conditions**

18. The GPDO imposes conditions on the development it permits. Paragraph W(13), however, permits the grant of prior approval unconditionally or subject to conditions reasonably relates to the subject matter of the prior approval.
19. The Council has provided a list of suggested conditions that it considers would be appropriate. I have imposed a condition relating to the external materials, given the absence of details on the plans, and this relates to the matter of external appearance.

20. Conditions requiring development to be commenced within a specified period and compliance with the approved drawings are not necessary, given that the provisions of the GPDO include conditions to this effect.

**Conclusion**

21. I conclude that the appeal is allowed and prior approval granted.

*C Shearing*

INSPECTOR