



Appeal Decision

Site visit made on 3 January 2023

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2023

Appeal Ref: APP/Q1153/W/22/3297510

Higher Narracott, Road from Townsend Farm to Waterhouse Farm Lane, Exbourne EX20 3QX

- 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 (GPDO).
 - The appeal is made by Mr A Thompson against the decision of West Devon Borough Council.
 - The application Ref 0039/22/PDM, dated 6 January 2022, was refused by notice dated 3 March 2022.
 - The development proposed is change of use of barns from agriculture to dwellings.
-

Decision

1. The appeal is allowed and prior approval is granted for change of use of barns from agriculture to dwellings at Higher Narracott, Exbourne EX20 3QX in accordance with the terms of the application, Ref 0039/22/PDM, dated 6 January 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. Given the lack of description of the proposal provided on the application form, the description of development shown above is taken from the application covering letter. However, it is clear from the submitted information that the proposal relates to more than one dwelling and I have therefore amended the description accordingly and will assess the appeal on this basis. Furthermore, as 'Class Q of part 3 of schedule 2 of the town and country planning (general permitted development)(England)(Amendment) Order 2015.' is not an act of development, I have removed this element.
3. The appellant has requested that buildings labelled 'units 2 and 3' in the submitted information be removed from consideration in this appeal. However, doing so would result in the proposal being materially different to that considered and consulted on by the Council and I will therefore determine the appeal on the information and plans as originally submitted.
4. Following the submission of this appeal, I have been made aware in the appellants final comments, that the Council have now granted prior approval¹ for the change of use of two agricultural buildings to 2 dwellinghouses at the appeal site, including 'unit 4' which is one of the buildings the subject of this

¹ 2574/22/PDM

appeal and a further building which was the subject of a previous appeal decision² at the site.

Main Issues

5. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO having particular regard to:
 - whether the proposed building operations fall within the scope of a conversion;
 - whether the location and siting of the buildings makes it impractical or undesirable for the buildings to change to Class C3 dwellinghouses, in terms of the effect on the living conditions of future occupiers of the proposed dwellinghouses, with particular regard to noise, odour and disturbance; and
 - the effect of the proposal on protected species.

Reasons

Building operations

6. Class Q of Schedule 2, Part 3 of 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 (dwellinghouses). Additionally, Class Q allows building operations and partial demolition which are reasonably necessary to convert the building to a Class C3 use.
7. The appeal site is located to the northeast of Exbourne and consists of a number of agricultural buildings adjacent an associated farmhouse, with a neighbouring dwelling, Lower Narracott Farm, to the north. The complex of farm buildings is accessed via a shared track which also serves the neighbouring dwelling. The appeal proposal relates to 4 agricultural buildings, with the smaller of these buildings noted as unit 2 and unit 3 on the submitted plans, to be utilised ancillary to the proposed 2 dwellinghouses.
8. Paragraph Q.1 (i) of the GPDO permits the installation or replacement of windows, doors, roofs, or exterior walls to the extent reasonably necessary for the building to function as a dwellinghouse and partial demolition to the extent reasonably necessary to carry out such works. The Planning Practice Guidance (PPG) provides further guidance in this regard, establishing that 'it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.'
9. The Council raises concerns that insufficient information has been provided, in particular regard to details of the structural condition of the existing buildings and extent of works required for conversion. The submitted Structural Inspection Report (dated 16th November 2021) (SR) indicates that the buildings demonstrate overall structural stability with some elemental repair necessary, but are capable of conversion through the application of normal building operations which would not involve any rebuilding.

² APP/Q1153/W/21/3286610

10. Given that the SR appears to have been produced by a suitably qualified authority and in the absence of an equivalent report on the part of the Council, I have given it significant weight. Although I acknowledge that the SR does not contain detailed analysis of structural integrity, or a full breakdown of works required, there is no legislative requirement for such a detailed report, and in the absence of any substantiated evidence to the contrary, I find no good reason to conclude that the SR is unreliable in any significant respect. Furthermore, I note that the Council have now in any case granted prior approval in respect of unit 4 and thus have accepted that this particular building (acknowledging this does not include other buildings the subject of this appeal) is capable of conversion.
11. Accordingly, the evidence indicates that the works required for the conversions could utilise the existing structures, no substantial works would be required to enable the residential conversion of the buildings, or that the works required would be extensive. On this basis, having regard to all the evidence, the building operations would be reasonably necessary in this instance and would not constitute a rebuild. Therefore, the proposed development would comply with paragraph Q.1(i) of the GPDO in terms of the extent or scale of building operations being reasonably necessary to convert the building with respect to Class Q (b).

Location and siting

12. There are concerns that the proposed dwellings would be located adjacent to farm buildings and a farmyard and consequently, use of those agricultural buildings and yard would be likely to result in adverse effects on the living conditions of future residents of the proposed development in terms of noise disturbance, odours and safety risks associated with traffic movements at Higher Narracott.
13. The Inspector within the previous appeal, while in relation to a differing building within the cluster of agricultural buildings, found that if agricultural use were to occur, the proximity of the adjacent agricultural buildings would be likely to give rise to nuisance from noise and odours, through their use for storage of machinery or housing of livestock. Furthermore, there would likely to be conflict between residents and their private vehicles and agricultural vehicles seeking to access the adjacent agricultural buildings and the agricultural land beyond the existing farmhouse.
14. However, notwithstanding the previous appeal decision, the Council have now granted prior approval for the conversion of two of the agricultural buildings to residential use. Furthermore, while I note comments from a third party relating to the use, and proximity, of an adjacent neighbouring building for agricultural, woodworking and livestock purposes, I observed that it appears agriculture has not taken place for some time at the site with no evidence of an intention to resume. While there is no certainty that the granted changes of use will occur, it does indicate there is a likelihood or real prospect of such use occurring, and also the Council's acceptance of the location of residential dwellings within the farmstead notwithstanding the neighbouring building.
15. Whilst I note that the Council's second reason for refusal referred to the proposal failing to meet Class Q.2(1)(a) of Part 3 of Schedule 2 of the GPDO, it is clear from the main parties' submissions that the concern does not relate to highway impacts, but rather concerns whether the location or siting of the

building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwellinghouse as described above. I have therefore not considered further the requirements of Class Q.2(1)(a), and this follows the approach taken by the Appellant and the Council within their statements.

16. Furthermore, even if I were to find that the proposal would result in unacceptable impacts on future occupiers, taking into account the proximity of the neighbouring third-party building, the previously granted prior approval could in any case result in a residential use directly adjacent the potential agricultural use of unit 1, thereby further supporting the change of use of unit 1 to a residential use.
17. Consequently, I find that the return of the surrounding buildings and yard to a level of operational agricultural use that would result in unacceptable disturbance to future occupiers to be unlikely. Although some disturbance may be possible from the neighbouring building, I conclude that neither the location nor siting of the agricultural buildings would make it impractical or undesirable for them to be used as dwellinghouses. Therefore, the proposed development would comply with paragraph Q.2(1)(b) and (e) of the GPDO.

Protected species

18. In consideration of wildlife matters, S40 of the Natural Environment and Rural Communities Act 2006 requires that 'every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. This duty is similar in scope to those under the Conservation of Habitats and Species Regulations 2017. This can justify taking into account the effect on any protected species in determining a prior approval application, where the matters include amenity, siting or location.
19. An Ecological survey (ES) has been submitted with the appeal documentation. The ES confirms that there is no evidence of bats with negligible suitability for roosting bats. However, although no evidence of barn owls, there is evidence of other bird nests and suitable bird nesting habitats. The Council have reviewed the ES and stated it overcomes their fourth reason for refusal. On the evidence before me I have no reason to disagree, subject to the imposition of a suitable condition.

Other Matters

20. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
21. Although a prior approval application is not an application for planning permission (as planning permission would be granted by the GPDO if the proposal is permitted development), given the prior approval matters include siting and location and appearance, there is a need, in accordance with the National Planning Policy Framework (Framework), for me to consider the effect of the proposed development on the setting of the adjacent listed building.

22. The adjacent Lower Narracott Farm is Grade II listed and from my observations, I find the significance of the listed building is derived from the age of the property, being a good example of a Devon thatched building and its association with the surrounding agricultural land.
23. The proposed development would result in additional glazing within the buildings and associated domestic paraphernalia. However, the overall appearance of a utilitarian rural building would be retained. Units 1, 2 and 3 are screened from the listed building by intervening buildings. Although 'unit 4' is adjacent the listed building, I find given the retention of the rural appearance and its spatial relationship, the proposed development would result in a neutral impact on the setting of the listed building.
24. In so far as they are relevant to the main issues and the specified matters of the prior approval, I have taken account of the third-party representation. Neither these nor any of the other matters raised outweigh or alter my conclusion on the main issues.

Conditions

25. Paragraph Q.2(3) stipulates 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. Further standard conditions are set out in paragraph W.(12) that requires development to be undertaken in accordance with the approved plans. Paragraph W.(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval.
26. I have had regard to the conditions suggested by the Council. I am statutorily required to take reasonable steps to conserve biodiversity. Therefore, a further condition is necessary to ensure that the construction of the development avoids disturbance to birds, and that suitable features for nesting birds and roosting bats are put in place, in the interests of biodiversity.
27. In imposing conditions, I have had regard to the tests in the Framework, to relevant elements of the PPG and of statute. I have accordingly amended the wording of conditions proposed by the Council without altering their aims. That is particularly so to ensure that condition three is precise and reasonable.

Conclusion

28. For the reasons set out above, the appeal is allowed, and prior approval is granted.

S Harrington

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted must be completed within a period of three years from this decision in accordance with Schedule 2, Part 3, paragraph Q.2(3) of the GPDO.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: HigherNarracott-PL01; HigherNarracott-PP02; HigherNarracott-PP04; HigherNarracott-PP06.
- 3) The recommendations, mitigation and enhancement measures of the Preliminary Ecological Appraisal by 'Plan for Ecology Ltd' dated 5th April 2022, shall be fully implemented prior to occupation of each unit hereby approved and the enhancement measures be maintained and retained for the lifetime of the development.