



Appeal Decision

Site visit made on 29 August 2023

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09.10.2023

Appeal Ref: APP/Q1153/W/23/3318096

Land on other side of the road from Kalehouse Farm, Bratton Clovelly, EX20 4JG

- 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 James Drew of Drew and Sons Plant Hire Ltd against the decision of West Devon Borough Council.
 - The application Ref 4007/22/PDM, dated 13 November 2022, was refused by notice dated 24 January 2023.
 - The development proposed is described as “change of use of existing agricultural building to a residential dwelling. In respect of adequate daylight provision please refer to proposed floor plan elevations.”
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Decision

1. The appeal is dismissed.

Preliminary Matters and Background

2. I have taken the address from the appeal form and Council’s decision notice as this is more accurate than the address given in the application form. Additionally, I have taken the appellant’s description of their business from the application form rather than the Council’s decision notice.
3. The appellant has provided a revised plan that was not before the Council when it made its decision. The plan amends fenestration detail which is a matter of dispute between both parties. I consider that although the revised plans would not lead to a substantially different application, this is nevertheless a matter that those consulted on this proposal may have wished to have had the opportunity to comment on. The appeal process should not be used to evolve a scheme and in applying the *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin) principles I have made my decision on the basis of the plans considered by the Council, and on which interested people’s views were sought.
4. Prior approval was granted in 2021¹ for the proposed change of use of an agricultural building and associated operational development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (Class Q). At my visit, I observed that extensive internal and external works, including glazing had already been carried out/installed, and these works were ongoing.

¹ Application reference 4075/21/PDM

5. The Council refused the application for prior approval for the change of use of the agricultural building to a dwellinghouse and for building operations reasonably necessary for the conversion that is the subject of this appeal on the basis that the proposed glazing was excessive and not reasonably necessary for the building to function as a dwellinghouse. They were also concerned that the replacement glazing and render would harmfully alter the external appearance of the barn.

Main Issue

6. The main issue is whether the proposed development would be permitted development.

Reasons

7. Condition Q.2.(1) of Class Q says that where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to a number of matters including the design or external appearance of the building.
8. The appellant states that works commenced on the earlier prior approval in November 2022. I have not been provided with any detailed plans relating to the previous prior approval, though the officer report says it included horizontal timber boarding. At my visit, I observed that the openings already installed are reflective of the submitted plans attached to this appeal.
9. Therefore, on the balance of evidence before me, I consider that development for which prior approval is sought has been commenced. As such, prior approval cannot be granted for development that has already begun and therefore the proposal does not constitute permitted development.

Other Matters

10. Given my conclusion that the proposed change of use and building operations would not be permitted development, I do not need to consider whether or not the fenestration to the appeal building would be reasonably necessary or if its design or external appearance would be appropriate.

Conclusion

11. For the reasons given above, the appeal is dismissed.

J Hills

INSPECTOR