



Appeal Decision

Site visit made on 2 April 2025

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2025

Appeal Ref: APP/U1105/W/25/3359239

**Gooselands, road from Tale House Cottage to Tale Common Head Cross,
Payhembury, Devon EX14 3HJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Kerron and Katherine Allen against the decision of East Devon District Council.
 - The application Ref is 24/0980/PDQ.
 - The development proposed is notification for prior approval of change of use of agricultural building to 3 no. dwelling houses and associated operational development under Schedule 2, Part 3, Class Q(a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015.
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Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 for notification for prior approval of change of use of agricultural building to 3 no. dwelling houses and associated operational development under Schedule 2, Part 3, Class Q(a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 at Gooselands, road from Tale House Cottage to Tale Common Head Cross, Payhembury, Devon EX14 3HJ.

Background and Main Issue

2. Subject to various conditions and limitations, Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) permits the change of use of a building from use as an agricultural building to use as a dwelling, together with building operations reasonably necessary to convert the building to a dwelling. Paragraph Q.2 requires that before beginning the development, the developer must apply to the local planning authority (LPA) for a determination as to whether the prior approval of the authority will be required.
3. Insofar as it is relevant to the development subject of this appeal, Article 7 of the GPDO requires the LPA to make a decision on the prior approval application within a period specific in the relevant provision of Schedule 2, or within any longer period agreed by the applicant and LPA in writing.
4. Paragraph W.(11)(c) of Part 3 of Schedule 2, explains that development must not begin until either (a) the receipt by the applicant from the LPA of a written notice of their determination that such prior approval is not required; (b) the receipt by the

applicant from the local planning authority of a written notice giving their prior approval; or (c) the expiry of 56 days following the date on which the application was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused. The appellant claims that the 56 days had expired before the notification of refusal was issued.

5. Therefore, the main issue in this appeal is whether prior approval is deemed to have been granted by reason of the timing of the Council's decision. If the decision has been made within the statutory timeframes, I would then consider whether the appeal scheme would fall within the development permitted by Class Q, the design or external appearance of the building and whether the location or siting of the building makes it impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 with particular reference to the effect on protected species.

Reasons

6. The Council received the prior approval application on 13 May 2024. The decision notice is dated 25 July 2024 which is in excess of 56 days from the date when the application was received. The Council contend that the application was not valid until additional information was submitted on 5 June 2024 and that the 56-day period should have started from that date.
7. Case law¹ has held that it is not mandatory to provide information beyond that specified in the Order. Paragraph W sets out the requirements for applications under prior approval. The requirements include, amongst other things, a written description of the proposed development which must include any building or other operations, a plan indicating the site and showing the proposed development. In this instance the application was accompanied by a Planning Statement (May 2024), a Structural Inspection Report² and a comprehensive suite of plans.
8. The planning statement explains that parking for the proposed dwellings would be laid out to the north of the barns, but the parking spaces were not indicated on the plans or included in the red line. In addition, a window indicated on an elevation drawing was not indicated on the corresponding floor plan.
9. Under paragraph W.(3) the Council had the option of refusing the application if they considered that insufficient information had been provided to establish whether the proposed development complies with any applicable conditions, limitations or restrictions. Nevertheless, in this instance the Council sought revised plans from the appellant and treated the application as invalid until the revised plans were received. However, there is no provision within the GPDO for such an application to be made invalid in such circumstances.
10. Under paragraph W.(9) of the GPDO, local planning authorities may require the developer to submit such information as the authority may reasonably require in order to determine the application, which may include (amongst other things) details of proposed building and other operations. However, requesting such information does not 'stop the clock' in respect of the 56-day period.
11. Notwithstanding the relatively minor perceived inconsistencies, the information received on 13 May 2024 was sufficient to fulfil the requirements of paragraph

¹ Murrell v SSCLG[2010] EWCA Civ 1367

² Prism, ref: 24-290

W.(2). Therefore, the application was valid on receipt and the decision was made after the 56-day period had lapsed. There is no evidence before me that a longer period than 56 days was agreed in writing by the appellant.

12. As such, it follows that prior approval is deemed to be granted. Consequently, I have no scope to consider the merits of the prior approval application or whether the development complies with other applicable limitations and conditions imposed on the planning permission granted via Article 3 and Class Q.
13. Nevertheless, the development can only lawfully proceed if carried out in accordance with the submitted plans and with the conditions and limitations imposed by the GPDO. Whether the proposed development is, in fact, permitted by the GPDO would be a matter for the Council and appellant to resolve.

Conclusion

14. I conclude that the appeal should be allowed on the basis that permission has been deemed to be granted.

E Pickernell

INSPECTOR