
Appeal Decision

Site visit made on 6 May 2025

by **S J Warder BSc(Hons) MA DipUD(Dist) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 May 2025

Appeal Ref: APP/X1545/W/24/3354799

Brights Farm, Chelmsford Road, Purleigh, Essex, CM3 6QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q(a) and (b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order).
 - The appeal is made by Mr Roger Thomason against the decision of Maldon District Council.
 - The application Ref is PACUAR/MAL/24/000663.
 - The development proposed is Prior approval application for the change of use of an agricultural building into two dwellinghouses (Class C), including building operations reasonably necessary for the conversion.
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Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q(a) and (b) of the Order for the change of use of an agricultural building into two dwellinghouses (Class C), including building operations reasonably necessary for the conversion at Brights Farm, Chelmsford Road, Purleigh, Essex, CM3 6QN in accordance with the application ref PACUAR/MAL/24/000663 and the details submitted with it, including plan ref 898.23.04 Rev B, and subject to the conditions in the appended schedule.

Main Issues

2. The main issues are:
 - whether previous alterations to the appeal building mean that the proposal would not comply with the provisions of Order paragraph Q1(g) and therefore not amount to permitted development;
 - the effect of the proposal on Essex Coast European Designated Sites.

Reasons

Whether permitted development?

3. Under paragraph Q1(g) of the Order development is not permitted if development under Class B(a) of Part 6 of Schedule 2 (alteration of an agricultural building) has been carried out in the period 10 years before the commencement of the proposal.
4. There is no dispute that works to the building were carried out in the relevant period. The Council refers to substantial alterations, including rebuilding of brick wall, new steel frame and roof. The appellant refers to replacing the previous asbestos cladding to the walls and roof with timber cladding to the walls and steel sheeting to the roof, together with necessary repair and replacement works. It

considers that the works do not materially affect the external appearance of the building and therefore do not amount to development for the purposes of section 55(2)(a) of the Act. As such, they do not trigger paragraph Q1(g) of the Order.

5. Case law (*Burroughs Day v Bristol CC* [1996] EGCS 126) has established that to be material, the external changes must be visible from a number of vantage points, material to the appearance of the building as a whole and have an impact capable of having some effect in planning terms. In this case, the building is positioned discreetly to the rear of residential properties on Chelmsford Road. There are no public views of it and, at most, limited glimpses from the rear of the adjoining properties. The roof cladding is barely visible even in close range views. The timber cladding, while extending around two thirds of the way down the walls, is no less typical of an agricultural building than the previous asbestos and unobtrusive in appearance. Other alterations are not apparent even in close range views of the outside of the building.
6. Taking these considerations together therefore, I find that the previous alterations have not materially affected the appearance of the building and do not amount to development under the Act. It follows that paragraph Q1(g) is not applicable in this case. The Council has found the proposal complies with the other conditions and limitations under Class Q. I see no reason to disagree. As such, the proposal amounts to permitted development.

Essex Coast European Designated Sites

7. It is common ground that the appeal site falls within the 'zone of influence' of the Essex Coast European Designated Sites. In order to comply with the Conservation of Habitats and Species Regulations 2017, a Habitat Regulations Assessment has been undertaken by the Council in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). It finds that residential development of the type proposed could potentially have a significant effect on the sensitive interest features of the designated sites due to increased recreational pressures. The RAMS allows for this effect to be mitigated through the payment of a financial contribution.
8. No means of securing this contribution was provided with the application, but a completed unilateral undertaking (UU) was submitted at the appeal stage. The Council was given the opportunity to comment on it, but no response was received. The UU would secure the financial contribution required by the RAMS and therefore ensure compliance with the Conservation of Habitats and Species Regulations 2017. The appellant should satisfy itself that it has complied with Regulation 77 prior to commencement of development.

Conditions

9. The Council has submitted a list of six conditions. The time limit for commencement of development is provided by paragraph Q2(4) of the Order. The requirement to carry out the development in accordance with the approved details is provided by paragraph W(12)(a) of Schedule 2, Part 3 of the Order. As such, there is no need for these matters to be conditions attached to this decision.
10. The Council's other conditions are reasonably related to the subject matter of the prior approval and have not been challenged by the appellant. I have amended the Council's wording to make the conditions more proportionate to the scale of the

proposal and for clarity. No details of the proposed surface and foul water drainage have been provided. Therefore, conditions to secure these details are required to avoid flood risk and safeguard public health. A condition to deal with contamination is also necessary in the interests of public health. A condition to ensure implementation of the mitigation measures contained in the appellant's Bat and Owl Survey is required to protect these species.

Conclusion

11. For the reasons given above the appeal should be allowed and prior approval should be granted.

S J Warder

INSPECTOR

Schedule of Conditions

- 1) No development above ground level shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority.

The submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
- iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 2) No development above ground level shall take place until details of the foul drainage for the development has been submitted to and approved in writing by the Local Planning Authority. Prior to the first occupancy of each dwelling, the foul drainage for that dwelling must be connected in accordance with the approved details. Any small sewage treatment plant installed must discharge treated effluent in a manner which complies with the "General Binding Rules" at the time of installation.
- 3) Any contamination found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to the Local Planning Authority for approval in writing. These approved schemes shall be carried out before the development is resumed or continued. Following completion of measures identified in the approved remediation scheme, a verification report

demonstrating the effectiveness of the remediation scheme carried out must be submitted to the Local Planning Authority for approval in writing.

- 4) All mitigation measures contained in the Bat and Owl Survey (Essex Mammal Surveys, July 2024) shall be implemented prior to first occupation of any dwelling hereby permitted.

End of schedule