



Appeal Decision

Site visit made on 20 May 2025

by H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2025

Appeal Ref: APP/Q1153/W/24/3355575

Staddon Moor Cross Farm, Essington Road, North Tawton EX20 2DP

- 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) (GDPO).
 - The appeal is made by Mr A King against the decision of West Devon Borough Council.
 - The application Ref is 2561/24/PDM.
 - The development proposed is change of use and associated operational development to create four dwellings.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use and associated operational development to create four dwellings at Staddon Moor Cross Farm, Essington Road, North Tawton, EX20 2DP, in accordance with the application 2561/24/PDM and the details submitted with it and subject to the following condition:
 - 1) Insofar as it relates to bats, the development shall be carried out in accordance with the actions set out in the Ecological Impact Assessment by Lakeway Ecology dated June 2024, in addition to any measures required under licence from Natural England.

Applications for costs

2. An application for costs was made by the appellant against the Council. This application is subject of a separate decision.

Preliminary Matters

3. The provisions of Schedule 2, Part 3, Class Q were updated on 21 May 2024. The appellant sought to use transitional arrangements for the proposal to be determined under the GDPO provisions that were in place prior to May 2024. As the transitional arrangements were available to the appeal scheme given its submission on 19 August 2024, I have determined it in accordance with the GPDO provisions that were in force prior to May 2024 and all references to the GPDO in this decision therefore relate to the version that was in force at that time.

Main Issue

4. The main issue in the appeal is whether, having regard to Schedule 2, Part 3, Class Q, Q.1 (j), whether the works would consist of building operations that exceed those permitted as reasonably necessary for the building to function as a dwellinghouse.

Reasons

5. Schedule 2, Part 3, Class Q (a) permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a Class C3 use (dwellinghouse). This provision also includes, at (c) development referred to in Paragraph (a) together with any building operations reasonably necessary to convert the building.
6. Paragraph Q.1.(j) places restrictions on the reasonably necessary building operations which can be undertaken. It states that development is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.
7. The Planning Practice Guidance (PPG)¹ advises 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. It is only where the existing building is already suitable for conversion that the building would be considered to have the permitted development right. Whether or not the proposed works go beyond the scope of a conversion will require an element of planning judgement.
8. The appeal relates to comprises part of a building containing disused former boar pig sheds with ancillary office which extends to around 1540 sqm. The conversion would relate to two steel-framed, linked components of the building and the ancillary office space, with the remainder be demolished. The converted structure would form four separate dwellings; one 'smaller' dwelling of less than 100 sqm, and three larger dwellings, each of more than 100 sqm but less than 465 sqm.
9. The building is substantially built and does not appear to be suffering from any structural defects. The submitted Structural Inspection² confirms that the building is structurally capable of being converted without the need for new structural elements. The external walls will be retained and will be externally clad with timber and internally dry lined, and with a small section increased in height with additional blockwork. The concrete floor base will be retained. The roof covering will be replaced with a new lightweight roof covering.
10. Whilst the Structural Inspection indicates that some aspects will be left to the detailed stage, I take this to mean the Building Regulations stage. For the purposes of the current appeal, it is sufficiently clear that the building will be converted without new structural elements and with limited alterations sufficient to allow its conversion to a residential use that are well within the permissible scope of operations. Whilst the proviso is that the additional loadings will need to be managed so as to be capable of being supported by the existing structure, this

¹ Paragraph: 105 Reference ID: 13-105-20180615

² HB Surveying, 17 October 2023

appears to be a disclaimer such as to ensure that appropriate caution is exercised. The proposals to replace the roof with an alternate lightweight material and other limited alterations do not appear to go overstep this advice or create an issue of inconsistency. I find nothing in the Hibbitt³ judgement that indicates that I should reach a different conclusion.

11. Accordingly, for the reasons set out above, the building is suitable for conversion to residential use and the proposed building operations would be reasonably necessary to convert the building for it to function as dwellinghouses and would comply with the provisions of Class Q of the GPDO.

Other Matters

12. Paragraph Q.2 (1)(e) of the GDPO allows consideration as to whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural to residential use that can allow consideration of impacts on species and habitats. The Council has not refused permission on the basis that the location or siting of the building would make it undesirable for such reasons, though the second reason for refusal relates to the absence of information on protected species in relation to the Conservation of Habitats and Species Regulations 2017, as amended, (Habitats Regulations), albeit that the superseded version from 2010 is quoted on the decision notice.
13. The submitted Ecological Impact Assessment⁴ (EIA) is sufficient to conclude that in respect of bats, the appellant would be required to seek a European Protected Species Licence from Natural England. Subject to a condition requiring adherence in respect of the measures outlined in the EIA specifically in respect of bats, ecological value of the site and sensitivity of the surrounding area do not make the proposed development undesirable in locational terms. Notwithstanding the agreement of the parties, I do not find that the replacement nesting bird habitat for swallows (*Hirundo rustica*) for an old nest is necessary *mitigation* in relation to the quoted legislation or a matter which would render the conversion of the building impractical or undesirable. Prior approval matter Q.2 (1)(e) is therefore satisfied in this regard.

Conditions

14. Paragraph Q.2(4) 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. Paragraph W(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. The Council has specified a condition in respect of the ecological mitigation measures specifically for bats which is reasonable and necessary to impose in respect of the prior approval matter outlined above.

Conclusion

15. For the reasons given above, I allow the appeal.

H Nicholls

INSPECTOR

³ Hibbitt and another v Secretary of State for Communities and Local Government and another [2016] EWHC 2853 (Admin)

⁴ Lakeway Ecological Consultancy, June 2024

