
Appeal Decision

Site visit made on 13 August 2025

by **Mr D Szymanski BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

Appeal Ref: APP/D0121/W/25/3365392

Four Winds Farm, Brinsea Batch, Congresbury, North Somerset, BS49 5JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 GPDO).
 - The appeal is made by Mr C Mikulla against the decision of North Somerset Council.
 - The application Ref is 25/P/0361/CQA.
 - The development proposed is described as Agricultural unit located on Brinsea Batch, see supporting statement and drawing package for full information.
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Decision

1. The appeal is allowed and prior approval 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 Prior approval for the conversion of agricultural buildings and area of land immediately surrounding the buildings to 1no. residential dwellinghouse (Use Class C3) with operational development including rendering of walls, insertion of new windows and doors at Four Winds Farm, Brinsea Batch, Congresbury, North Somerset, BS49 5JP in accordance with the application ref 25/P/0361/CQA and the details submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. The description in the banner heading is from the application form. There is a revised description on the decision notice, which is referred to in the appeal form, that more accurately reflects the proposal. I have used it in considering the appeal and in the decision paragraph above.
3. The Council's first reason for refusal was that the proposal did not constitute permitted development due to the curtilage not being immediately beside or around the building and significantly exceeding the building area, in conflict with Paragraph Q.3(1) of Class Q of the GPDO. In the appeal submission, the appellant explains the plan included the shared access, parking and turning space to provide an understanding the site and was not to define the curtilage.
4. A new plan clarifies the curtilage, which having had the opportunity to comment through the appeal process, the Council states complies with Class Q.3(1). The plan constitutes a clarification, which does not amount to a significant or material change, and accepting the plan would not cause unlawful procedural unfairness to anyone involved in the appeal. Therefore, I have accepted the plan, considered the appeal on that basis, and my main issue below reflects this.

5. Due to a consultee response not being published until well after the Council made its decision, the appellant was unaware of its existence until after its appeal questionnaire and statement of case were submitted. Given this and its relevance to a reason for refusal, I have accepted additional comments in respect of noise matters from the appellant and allowed the Council the opportunity to comment upon them. Accepting the evidence would not cause unlawful procedural unfairness to anyone involved in the appeal, and I have had regard to the respective submissions in determining the appeal.

Background and Main Issue

6. Schedule 2, Part 3, Class Q of the GPDO, permits the change of use of a building and any land within its curtilage from an agricultural building, to a use within Class C3 of the Use Classes Order 1987 (as amended), some limited extensions, and building operations reasonably necessary to convert the building, subject to limitations and conditions. Where a scheme is found to be permitted development, it is subject to condition under paragraph Q2(1) that before beginning the development, an application must be made for a determination as to whether prior approval will be required as to matters under paragraph Q2(1).
7. The Council's remaining reason for refusing the application is that, having regard to condition Q2(1)(b) and (e), 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 due to noise and odour. Therefore, the main issue is:
 - whether or not prior approval should be granted in respect of the matters set out in condition Q2(1) (b) and (e) with particular reference to noise and odour.

Reasons

8. The Planning Practice Guidance (PPG) sets out that impractical or undesirable are not defined in the regulations, and an authority should apply a reasonable ordinary dictionary meaning in making a judgment. Impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable"¹. Class Q does not therefore, require there would be no noise or odour, or a location is impact free. Some level of noise and odour from with rural activities is typical and will not necessarily be impractical or undesirable.
9. The appeal building lies off an enclosed barn building, permitted as a Hay and Cattle Barn, of approximately 336 square metres in floorspace, to be retained in agricultural use. Internally it is divided and served by roller shutters opening onto a yard, some of which would be adjacent and close to the southwestern dwelling elevation. The northeastern dwelling elevation would be separated from the agricultural field by a new modestly sized private garden area.
10. There appears to be no planning restriction upon the timing or nature barn use, and agricultural needs could well be such that it could be used at any time. The appellant confirms the barn is not intensively used or used for livestock or noisy operations. It is for storage of hay, mowers and vehicles, consistent with its historical and lawful use. While my visit only represents a brief snapshot in time, I saw nothing contrary to the appellant's explanation of how the building is used.

¹ Paragraph: 109 Reference ID: 13-109-20150305.

11. I am informed the only agricultural land under the appellant's control is around 1.4 hectares. Based upon the plans the appellant owns the adjoining field, comprising grassland with a limited number of fruit trees. Its size could only accommodate modest amounts of crops. The appellant explains that 1.4 hectares could typically support 2 – 3 cattle or 17 – 20 sheep on a year-round basis.
12. Agricultural operations on the scale I saw, even with intensification and greater use of the barn, would be likely to generate only a limited amount of noise and odour from any part of the land, yard or buildings. This could include from intermittent crop management activities, or from animals grazing, or occasionally, their movement with associated vehicles and machinery. At times some activities may be in the early hours. However, from what is before me, this is likely to be limited and infrequent and generally be quite low-level. Such noise and odour would not be unacceptable. I noted a number of dwellings in the area, have elevations adjoining or close to field boundaries, and such situations appear to be not uncommon or undesirable in rural areas.
13. All main living spaces would be served by openings onto the rear garden and field beyond, and it would not be necessary to keep them closed to ensure satisfactory living conditions. The building and windows would be designed to modern standards, and I see no reason why they could not be of a design to ensure living conditions meet modern residential standards within BS8223:2014 and World Health Organisation guidelines, as sought by the suggested noise condition. In the context of what I saw and any reasonably likely intensification, I am satisfied the condition would meet tests in paragraph 57 of the National Planning Policy Framework (2024) (the Framework) and would not be unreasonable.
14. Though noting the Council's concerns of intensification, these would appear hypothetical and the assumptions upon which they are based is unclear, as to are that they are realistic and could reasonably generate impractical or undesirable effects. The building could have a potential to enable the site's use to be intensified, however, the scope for this appears very much limited. Even allowing for a reasonable intensified use of land and buildings, I cannot conclude from the Council's case that any type of future occupiers would be subject to odour, noise or disturbance that would be regarded as impractical, undesirable, offensive or inherently harmful to their living conditions. I also cannot conclude the scheme would adversely affect the operation of the farm.
15. The Council has not explained a scope for any noise survey and what it considers are likely reasonable and realistic levels, types and intensity of activities could take place at this specific operation. Based upon the operations I observed, am referred to and a reasonable intensification, a noise survey may not measure any meaningful activity over a number of days, if at all. I note the appellant's acoustician's view is that a formal noise assessment is unnecessary, and I see no such request from the Council's adviser, just a request for a condition. In the specific circumstances of this case, I am satisfied that sufficient and proportionate evidence is provided and that the scheme would not result in harmful or unacceptable conditions for the future occupiers in respect of noise and odour.
16. The detailed circumstances and situations of buildings proposed for Class Q conversions in appeal decision letters provided by the parties are not fully clear, in particular the extent of land farmed and the nature of the existing and reasonably

foreseeable operations. At Hidden Farm² it did not appear to involve a conversion in such proximity to another building. At Charity Farm³, references to adjacent substantially sized buildings, their contents, and movements, suggest quite a busy area of the farm, potentially serving a large land area, which is significantly different from the scale and nature of operations before me. At Wash Farm⁴, I am unable to conclude its situation is comparable in respect of operation size, building position and use, to this appeal scheme. None of the three decision letters justify departing from the specific evidence before me or altering my findings.

17. I have found the surrounding environment and uses would mean windows to living areas could remain open and ensure satisfactory living conditions. The situation at 41 Oxford Street⁵ in a town centre location, where it seems there was a specified reliance upon closed windows for satisfactory living conditions and mechanical ventilation, is not directly comparable to the situation of the scheme before me.
18. Therefore, for the reasons set out above, prior approval should be granted in respect of the matters set out in condition Q2(1) (b) and (e) with particular reference to noise and odour. The scheme would not conflict with paragraphs 135(f), 198 and 200 of the Framework insofar as (in combination), they expect decisions should ensure a high standard of amenity for existing and future users, new development can be integrated with existing businesses, development is appropriate considering likely effects upon health and living conditions, and suitable mitigation can be provided. It would also not conflict with the Noise Policy Statement for England (2010) insofar as this aims to avoid significant adverse impacts on health and quality of life from environmental and neighbour noise.

Other Matters

19. The curtilage on the clarifying plan is immediately beside and around the building. In respect of Q2(1) (a), (c), (d), (f) and (g) the Council raises no objection to the proposed development, subject to certain conditions, and I see no reason to disagree. Though the appellant explains some broader merits of the scheme such as in respect of sustainability, and housing supply, these are not pertinent to my consideration of the main issue in respect of this appeal.
20. Though I note the Highway Authority comments in respect of car dependency, the PPG⁶ confirms the right deliberately does not apply a test in relation to sustainability of location, because many agricultural buildings will not be in settlements and may not be able to rely on public transport for daily needs. Noting the relatively short distances to nearby settlements with services and facilities, these matters do not make the conversion impractical or undesirable. Cycle and car parking provision is sufficient, as set out and secured in the submitted plans.

Conditions

21. Prior approval granted under Schedule 2, Part 3, Class Q of the GPDO is subject to the condition in Q2 (4) which specifies that the development shall be completed within a period of 3 years of the prior approval date. The provisions paragraph W

² Ref. APP/D0121/W/24/3356986.

³ Ref. APP/L3245/W/25/3362586.

⁴ Ref. APP/F2605/W/24/3347666.

⁵ Ref. APP/D0121/W/24/3337068

⁶ Paragraph: 108 Reference ID: 13-108-20150305.

- (12) require development is carried out in accordance with the details submitted. Therefore, further conditions in these regards are unnecessary.
22. The GPDO allows other conditions to be imposed subject to them being reasonably related to the subject matter. A condition relating to contamination is necessary to ensure the land is suitable for its intended use. It is required to be pre-commencement as it affects the early part of the development. A condition is necessary to ensure the new dwelling is built to modern environmental noise insulation standards in the interests of the living conditions of future occupiers.
23. To safeguard protected species and in accordance with the Conservation of Habitats and Species Regulations 2017 and Section 40 of the Natural Environment and Rural Communities Act 2006, conditions are necessary to require the prior approval of external lighting, and the scheme is built in accordance with the recommendations of the submitted Bat Roost Assessment. Article 3(1) states that development is granted subject to regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017. If of relevance to this scheme, it is to be addressed with the Council under the Regulations.
24. In the interests of the character and appearance of the area a condition is necessary to require the materials are compliant with the submitted plans and specifications. I understand Electric Vehicle charging is covered by the building regulations, so a condition is not necessary. Informative advice should not be used in place of planning conditions but given the onsite space available a specific construction management condition would not be necessary, and the appellant will be aware of Highway Authority informative advice in these regards.

Conclusion

25. For the reasons given above, I conclude the appeal should be allowed and prior approval is granted.

Mr D Szymanski

INSPECTOR

----- Schedule of Conditions -----

- 1) No development shall take place until an assessment of the nature and extent of any contamination on the site has been carried out, submitted to and approved in writing by the Local Planning Authority (LPA). The assessment must be undertaken by a competent person and shall include:

1. A survey of the extent, scale, and nature of contamination.
2. An assessment of the potential risks to:
 - a. Human health;
 - b. Property (existing or proposed) including buildings, service lines, and pipes;
 - c. Adjoining land;
 - d. Groundwaters and surface waters;
 - e. Ecological systems; and
 - f. Archaeological sites and ancient monuments.

If the assessment indicates that remediation is necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use must be submitted to and approved in writing by the LPA before development begins. The remediation scheme shall:

- Remove unacceptable risks to human health, buildings, and other property, as well as the natural and historical environment.
- Include all works to be undertaken, remediation objectives, and criteria, an appraisal of remediation options, and the preferred option(s).
- Provide a timetable for the works and site management procedures
- Ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The approved remediation scheme must be implemented in accordance with the approved timetable of works. Within 3 months of the completion of the approved remediation measures, a validation report demonstrating the effectiveness of the remediation carried out must be submitted to and approved in writing by the LPA.

- 2) Prior to the occupation of the residential unit a scheme for achieving the external and internal noise levels outlined in BS8233:2014 and World Health Organisation Guidelines shall have been submitted and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the first occupation of the dwelling hereby permitted. Thereafter it shall be maintained in the approved state at all times, with no alterations made to the approved structures including roof, doors, windows and external facades, layout of the units or noise barriers.
- 3) No external lighting shall be installed on the buildings unless details, including:
- (i) details of the type and location of the proposed lighting;
 - (ii) existing lux levels affecting the site;
 - (iii) the proposed lux levels; and,
 - (iv) lighting contour plans,

have first been submitted to and approved in writing by the Local Planning Authority. Any external lighting shall be installed and operated in accordance with the approved details.

- 4) The development must be carried out in full accordance with the recommendations, mitigation and enhancement measures set out in the Report by Avondale Ecology dated January 2025.
- 5) The materials to be used in the development hereby permitted shall be in full accordance with the submitted plans and specifications unless details of any alternative material have first been submitted to and approved in writing, by the Local Planning Authority.

----- End of Schedule -----