



Appeal Decision

Site visit made on 2 September 2025

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9TH September 2025

Appeal Ref: APP/Y1138/W/25/3367603

Wyllspring Farm, Lane Past Easterbrooke Farm, Penstone, Colebrooke, Devon EX17 5JR

- 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 Mr M Hann against the decision of Mid Devon District Council.
 - The application Ref is 24/01638/PNCOU.
 - The development proposed is prior notification for the change of use of an agricultural building to 2 dwellings under Class Q.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The Planning Practice Guidance (PPG) states that permitted development rights are a national grant of planning permission which allow certain building works and changes of use to be carried out without having to make a planning application. Permitted development rights are subject to conditions and limitations to control impacts and to protect local amenity. This is effectively a 2-stage process where it is necessary in the first instance to determine whether or not the proposal is permitted development.
3. In part, Class Q of Part 3 of Schedule 2 to the GPDO says that development consisting of Q(a) a change of use of a building that is part of an established agricultural unit to a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order; and Q(b) and (c) an extension or building operations reasonably necessary to convert the building, is permitted development.
4. Development is not permitted by Class Q if in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unit on 24th July 2023, or where the site became part of the established agricultural unit after 24th July 2023, for a period of at least 10 years before the date development under Class Q begins. Furthermore, development is not permitted under Q1. P if the building does not have suitable existing access to a public highway.
5. Where development is found to be permitted, this is subject to certain conditions including whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of Schedule 1 to the Use Classes Order. This is set out in Q2.-(1)(e).

6. The Council refused the application for prior approval on the grounds it considered the building was not complete and in use until after the relevant date, that being the 24th of July 2023. It raised concerns over the suitability of the access across a long track and the proximity of the appeal building to an adjacent agricultural building.
7. Additionally, while not advanced as a reason for refusal, the Council raises concerns that the appeal building has not been constructed in accordance with planning permission ref 22/01693/FUL. The appellant has responded to this matter and would therefore not be prejudiced by its inclusion within the main issues.
8. Accordingly, I consider the main issues in this case to be:
 - whether the proposed development would be permitted development, and if so:
 - whether prior approval should be granted, with particular regard to the location of the building.

Reasons

The building

9. Article 3(5) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) states that “the permission granted by Schedule 2 does not apply if in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful”.
10. In that context, while hand drawn and lacking site levels, the approved plans relating to application ref 22/01693/FUL show a 9m high building with 3 shutter doors, and block and timber gable elevations. These plans were the subject of a condition under the terms of that permission.
11. The appellant acknowledges that the existing building differs from that permitted, though claims such alterations are non-material. The submitted existing plans are consistent with the built form I observed at the time of my visit. These plans indicate an 8.4m high building. Externally, unlike the permitted scheme, it has a shallow pitched roof, 2 roller shutter doors, rear, and side doors, and rather large windows. Additionally, I saw a lean-to extension to one side of the building. Even without the extension, these alterations are by no means insignificant. Accordingly, the appeal building’s appearance is evidently at variance from anything that has been shown to have been permitted.
12. For these reasons, there is a conflict with Article 3(5) of the GPDO, and the proposal cannot be permitted development.

Other Matters

13. As I have concluded that the proposed development falls outside of the permitted development right, it is not necessary for me to make any determination as to whether the site was part of the established agricultural unit on the relevant date, whether the access I drove along is “suitable”, or whether it would be undesirable for the building to change from agricultural use to a dwelling.

Conclusion

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

J Hills

INSPECTOR