



Appeal Decision

Site visit made on 16 September 2025

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2025

Appeal Ref: APP/W1145/W/25/3368533

Agricultural building, High Bickington Easting 262114, Northing 121659

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Max May against the decision of Torridge District Council.
 - The application Ref is 1/0098/2025/FUL.
 - The application sought planning permission for repair and replace cladding to agricultural building, and minor repair to barn and associated works without complying with a condition attached to planning permission Ref 1/0260/2024/FUL dated 17th May 2024.
 - The condition in dispute is No5 which states that: *Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order revoking and re-enacting that Order) no development of the types described in Part 3, Class Q (agricultural buildings to dwellinghouses), of Schedule 2, other than that hereby permitted shall be carried out without the further grant of planning permission.*
 - The reason given for the condition is: *Repairs to an agricultural building so as to achieve a change of use to a dwelling is contrived.*
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Decision

1. The appeal is allowed and planning permission is granted for repair and replace cladding to agricultural building, and minor repair to barn and associated works at agricultural building, High Bickington Easting 262114, Northing 121659 in accordance with the application Ref 1/0098/2025/FUL, without compliance with condition number 5 previously imposed on planning permission Ref 1/0260/2024/FUL dated 17th May 2024 and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of decision Ref 1/0260/2024/FUL.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos 1403 21 A and 1403 30 A, received by the Council on 22 March 2024.
 - 3) Prior to the building coming into use for the purpose hereby approved, a bat box shall be attached to an external eastern or southern facing elevation, under the roof eaves. The bat box should also remain free of direct light spillage. The bat box shall be retained thereafter.
 - 4) Prior to the building coming into use for the purpose hereby approved, two sparrow nesting boxes shall be attached to an external eastern or northern facing elevation, as high as possible, and shall be retained thereafter.

Background and Main Issue

2. An application¹ under Class Q of the GPDO was refused by the Council as it considered that the proposed works were not representative of a conversion. Planning permission was subsequently granted for the repair and replacement of cladding to an agricultural building, and other minor repairs to barn with associated works. At the time of my visit, the appeal building was standing.
3. The appeal seeks permission to carry out the development without complying with condition 5. This condition effectively removes certain permitted development rights of the types described in Part 3, Class Q (agricultural buildings to dwellinghouses), of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO).
4. In that context, the Council is concerned that the condition is necessary to prevent the appellant from, what it says would be, contriving a dwellinghouse via Class Q of the GPDO following substantial alterations, which would amount to unsustainable development.
5. The appellant contends that the condition lacks clear justification, serves no planning purpose, and is not fairly and reasonably related to the development permitted.
6. The main issue is whether condition 5 is reasonable and necessary.

Reasons

7. Paragraph 55 of the National Planning Policy Framework (the Framework) requires clear justification for conditions that restrict national permitted development rights. Moreover, the Planning Practice Guidance (PPG) says that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity.
8. However substantial the alterations to the existing building may be, the Council nevertheless chose to approve this scheme on the grounds it was likely to meet the terms of Policy ST07 of the North Devon and Torridge Local Plan (LP). Amongst other things, this policy supports rural building reuse in the countryside and makes no mention of removing permitted development rights.
9. While I have paid regard to the planning history, paragraph 57 of the Framework says, in part, that conditions should only be imposed where they are relevant to the development permitted. In this case, the permission relates to repairs and cladding of an existing agricultural building, where its use would remain unaltered. The reason given for the condition does not cite any development plan policy under which it could be justified, which lacks precision.
10. Instead, it says that repairs to achieve a change of use to a dwelling are contrived. The officer's report expands by noting that the condition prevents the appellant from exploiting the planning system. However, there is no convincing evidence that the situation has changed since the permission or that it is intended the barn is to be used for other purposes. For the reasons given, the restriction has little to do with the permission itself. The condition is therefore not relevant to the development permitted.

¹ Application Ref 1/0045/2024/AGMB

11. In addition, the Council says the condition does not create a problem for the appellant if the building were to continue to be used for agricultural purposes. It says they could apply for permission to convert to a dwelling to allow for a more detailed assessment. While this may be the case, without the condition, the appellant would still be required to meet the conditions and limitations set out in Class Q of the GPDO and apply to the Council for prior approval. Given the permission is for repairs, it is unclear why one form of assessment would amount to sustainable development, while the other would not. Neither has it been shown there would be a policy conflict in the absence of the condition. Overall, there is no compelling or clear justification for the removal of this national permitted development right. Although the condition may be enforceable, there is no reason to keep it.

Conditions

12. The PPG indicates that when granting permission under section 73, decisions should restate the conditions imposed on earlier permissions that continue to have effect.
13. For clarity, I have included a time limit condition based on the date of the original permission. A plans condition is necessary in the interests of certainty. The installation of bat and bird boxes are reasonably necessary in the interests of biodiversity and conditions have been included accordingly.

Conclusion

14. The condition in dispute is not reasonable or necessary and should be removed. Therefore, for the reasons given above, the appeal should succeed.

J Hills

INSPECTOR