



Appeal Decision

Site visit made on 6 November 2025

by **S Leonard BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21ST November 2025

Appeal Ref: APP/Y1138/W/25/3367528

Dans, Road Past Waterslade, Hockworthy, Devon TA21 0NS

- 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 Dan Franklin against the decision of Mid Devon District Council.
 - The application Ref is 24/01548/PNCOU.
 - The development proposed is described as “a change of use from agricultural to Class Use C3 for the provision of four dwellings which sit within the boundary of the existing barn”.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal proposal relates to a prior approval notification made under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). Development plan policies and the *National Planning Policy Framework 2024* (the Framework) can be considered relevant to prior approval cases, but only insofar as they relate to the development and prior approval matters. I have determined the appeal on this basis.
3. The Council made its decision on 22 January 2025. On 21 May 2024, Statutory Instrument 2024 No.579 came into force amending Schedule 2, Part 3, Class Q of the GPDO. The transitional arrangements set out in Article 10 of the Order clarify that the amendments do not apply in relation to previously permitted development under Class Q of the GPDO in respect of which an application for a determination as to prior approval is made before 21 May 2025.
4. The original application was submitted in October 2024. Notwithstanding the transitional provisions which allowed applications for determination as to prior approval in relation to previously permitted development under Class Q until the end of 20 May 2025, the appellant chose to seek approval under the newly introduced legislation. The Council considered the application on that basis, and I have therefore determined this appeal accordingly. As such, all references to the GPDO within this decision relate to the 21 May 2024 changes.

Background and Main Issues

5. Schedule 2, Part 3, Class Q(a) of the GPDO 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 use falling within Class C3 (dwellinghouses). Class Q(c)

of the GPDO permits building operations reasonably necessary to convert the building. The appeal relates to development under both Q(a) and Q(c), so that the proposal relates to the change of use to residential as well as associated facilitating works.

6. Where development is proposed under Class Q(a) together with Class Q(c), and the proposed works are found to be permitted development, it is subject to the condition under Paragraph Q.2(1) that before beginning the development, an application must be made to the Local Planning Authority for determination as to whether prior approval is required with regard to (a) transport and highways impacts, (b) noise impacts, (c) contamination risks, (d) flooding risks, (e) location or siting, (f) the design or external appearance and (g) the provision of adequate natural light in all habitable rooms of the dwellinghouses.
7. Schedule 2, Part 3, Paragraph W of The Town and Country Planning (General Permitted Development) (England) Order 2015¹ (GPDO) sets out the prior approval process. It states² that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question.
8. The Council refused to grant prior approval on the basis that the proposal did not constitute development permitted under Schedule 2, Part 3, Class Q as the building does not have suitable existing access to a public highway.
9. The Council's reason for refusal also refers to harmful transport and highways impacts associated with the appeal scheme and, with this mind, given the rural location of the site and an associated dependence upon the private car as a means of travel, it also raised concerns that the siting and location of the building make its proposed residential use impractical and undesirable. These are matters requiring prior approval in relation to Class Q development.
10. Accordingly, the main issues are:
 - Whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to whether the building has suitable access to a public highway; and if so,
 - Whether or not prior approval would be required in accordance with the condition set out in Paragraph Q.2 (1) of the GPDO having regard to whether the transport and highways impacts of the development would be acceptable and whether the location or siting of the building makes it otherwise impractical or undesirable for part of the building to change from agricultural use to dwellings.

¹ SI 2015 No.596

² Paragraph W (3)

Reasons

Whether the proposal would be permitted development

11. The appeal site lies to the north side of Black Lane within a wooded setting within open countryside between Hockworthy and Holcombe Rogus. It is occupied by a 3-bay, open-fronted timber pole barn with a corrugated pitched roof. It is used for the storage and maintenance of agricultural machinery and vehicles and storage of animal feed and agricultural produce in connection with the appellant's mixed sheep and beef cattle small holding.
12. Paragraph Q.1 (p) states that development is not permitted by Class Q if the building does not have suitable access to a public highway.
13. Vehicular access to the barn is via an access track from Black Lane, a Class III classified road which acts as a minor rural distributor road. The track is single width and extends to approximately 80m on ground that rises in a southerly direction towards the road. Whilst there are patches of stone surfacing, it is largely un-made with mud and grass featuring along its length.
14. The access point onto Black Lane has no driver visibility to the west side due to trees, hedging and a frontage stone bank to that side of the track exit point combined with the position of the site access to the east of a notable bend in the road. Whilst visibility to the east side of the exit point is less restricted, it is still limited because of similar frontage banking and vegetation along this part of the road. Moreover, this section of Back Lane is narrow and has no street lighting or pedestrian footways.
15. The information before me is that the agricultural enterprise gives rise to approximately 20 vehicle movements in and out of the appeal site per day. These include agricultural machinery and staff vehicles.
16. Also, a third party has confirmed that the track is not within the ownership of the appellant, who has rights of access over it, as do the owners of Waterslade Barn, a residential property sited to the south of the appeal site which is also accessed via the said track. The interested party has also confirmed that the track also provides rear access to the neighbouring property at Waterslade Farmhouse which is within the same ownership.
17. With the above in mind, I accept that there are already a notable number of daily vehicular movements associated with the agricultural use of the appeal site and neighbouring residential properties. Moreover, the appellant has stated that as a result of the appeal scheme the existing activities directly connected with the barn would move to a different site, some 4 miles away, thereby reducing the amount of agricultural vehicular traffic traversing the access drive.
18. However, the predominantly unmade nature of the track is more suited to use by farm-associated vehicles adapted to off-road use than domestic use vehicles as proposed. With this in mind, during my site visit, I saw evidence of deep tyre tracks along muddy parts of the access track where cars or pedestrians could reasonably be likely to slide during wet weather due to a combination of the track surface, rising ground levels, narrow width and sharp bend to be negotiated upon exiting the area immediately in front of the building.

19. The appellant would reasonably have some control over the timings of existing traffic directly connected with the barn's existing use, such as staff movements and deliveries. However, the introduction of 4 additional independent residential units each with its own vehicle movements associated with the occupiers, visitors and deliveries, together with any required services and emergency vehicle access is reasonably likely to involve conflicts between different track users entering and exiting the appeal site due to the narrow and long nature of the access way, which has no passing places, so that meeting vehicles would necessitate one of them having to reverse.
20. Notwithstanding that vehicle traffic speed along the drive is likely to be low, this would give rise to highway safety concerns in relation to drivers and/or pedestrians because of vehicles reversing back into the public highway after meeting along the access drive or drivers encountering vehicles exiting the site. Such manoeuvres would be potentially unsafe given the aforesaid poor access visibility at Black Lane and the narrow, winding rural nature of this part of the public highway.
21. In addition to the above, the rural location of the site whereby community facilities and services and public transport links do not lie within reasonable walking distance would give rise to a high level of dependence upon the car as a mode of transport by future residents. Moreover, as 2-bedroomed houses, it is reasonably likely that occupants would have more than one car. As such, there would be a significant amount of vehicular traffic using the access track in connection with the appeal scheme.
22. Moreover, whilst the barn storage would move elsewhere, there is no cogent evidence before me that all agricultural traffic along the access drive would necessarily cease, having regard to the continued operation of the appellant's small holding. As such, this would add to the amount of potential vehicular conflict along the access way.
23. I have noted the appellant's suggestion of improving the existing access arrangements by providing passing places on land within its ownership. I have not been provided with proposed scheme details, and notwithstanding this, any proposed alterations to the existing situation would not fall within the remit of this Class Q Prior Approval application, the consideration of which is dependent upon whether the existing access is suitable.
24. The appellant also refers to a realistic approach to exiting the access drive involving vehicles edging out slowly. However, it cannot be guaranteed that all driveway users would adopt this approach, and this does not overcome the lack of visibility to the west when exiting the site.
25. My attention has also been drawn to an existing parking area/layby on the opposite side of the road, which the appellant considers would act as an emergency pull-in site for road drivers meeting driveway users exiting onto Black Lane. However, there is no mechanism before me to ensure that this land would be continuously available for this purpose, since it does not form part of the public highway, is not within the appellant's ownership or control and the evidence before me is that it is used by the current owner for parking.
26. Neither is cogent evidence before me that an existing convex mirror positioned on the opposite side of the road to aid vehicles using the access driveway would mitigate the highway safety harm I have identified. Such equipment provides a

deformed image whereby it is difficult to accurately judge distance, and it can be rendered ineffective through coverage by dust or mud, thereby requiring regular cleaning. Also, it is not placed on the appeal site or on land owned by the appellant and, as such, there is no assurance that it will remain in place for the lifetime of the appeal scheme, or that it would be regularly cleaned.

27. I acknowledge that there were no recorded accidents along this part of Black Lane for the 5 years up until December 2024. However, this is based upon the current access drive use, which because of the appeal scheme would alter notably both in terms of the nature and number of vehicles using the access. Whilst other nearby rural accesses have operated effectively during this time, there is no substantive evidence before me that they are directly comparable with the appeal scheme in terms of access details and numbers and types of users.
28. Having regard to all the above, I find that the building does not have a suitable existing access to a public highway, and the requirements of Paragraph Q.1 (p) have not been met.
29. In coming to this view, I have taken account of the views of the Highway Authority who recommended refusal on highway safety grounds due to the resulting increase in traffic using a substandard junction. This is a matter of importance because the Highway Authority is responsible for the safety of users of the local highway network.

Prior approval

30. Given my conclusion that the proposal would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required, as it would not alter the outcome of the appeal.

Other Matters

31. The appellant refers to benefits arising from the appeal scheme, including the contribution it would make to the Council's housing supply, noting that it cannot currently provide a 5-year housing land supply as required, and other economic and social benefits.
32. The National Planning Practice Guidance (PPG) confirms that the matters for prior approval vary depending on the type of development and these are set out in the relevant Parts in Schedule 2 to the GPDO. The PPG is clear that a local planning authority cannot consider any other matters when determining a prior approval application³.
33. Accordingly, the presumption in favour of sustainable development as set out in Paragraph 11 of the Framework is not a matter for consideration under this prior approval appeal, notwithstanding the Council's current housing land supply position.

Conclusion

34. For the reasons given above, and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q

³ Paragraph: 026 Reference ID: 13-026-20140306

of the GPDO. Consequently, it is development for which an application for planning permission would be required.

35. The appeal is therefore dismissed.

S Leonard

INSPECTOR