
Appeal Decision

Site visit made on 14 July 2026

by **R Curnow MA(TCP), BSC(Hons), CMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 October 2026

Appeal Ref: APP/Y1138/X/24/3350139

Chaldon Farm, Mutterton, Cullompton, Devon, EX15 1RB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr James Persey against the decision of Mid Devon District Council.
 - The application ref 24/00473/CLP, dated 18 March 2024, was refused by notice dated 13 May 2024.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is 'The proposed change of use of an agricultural barn and associated works to 4 dwellings with associated operations'.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed use which is found to be lawful.

Procedural Matters

2. The Council suggests that the Appellant should have appealed against the refusal of a similar application that he made in 2023, (Council reference 23/01339/PNCOU, 'the 2023 application'), rather than against the decision on application 24/00473/CLP. He might have taken that route; however, given that he made a valid application to the Council, which then determined it, he had every right under the terms of s195 of the Act to pursue this appeal.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue a certificate of lawful development was well-founded.

Reasons

4. Section 192(1) of the Act provides for the making of an application to ascertain whether (a) any proposed use of buildings or other land; or (b) any operations proposed to be carried out in, on, over or under land would be lawful. Amongst other things, section 195 provides the right to lodge an appeal against a local planning authority's refusal to issue a certificate. The onus lies with an appellant to make to make his case on the balance of probabilities.
5. Chaldon Farm lies in the open countryside, some 3.5 kms to the southeast of the town of Cullompton. The barn in question is a large portal framed building typically used in agriculture. It has two elements, one being markedly narrower than the other. Its roof covering is a mixture of profiled metal and corrugated cement sheeting, and its walls are of vertically and horizontally aligned timber boarding and concrete blocks. Its south elevation is open, save for metal stockproof rails

whilst its eastern elevation is largely open, save for large metal gates, and a small part of the western elevation is open.

6. It is proposed to create four dwellings from the barn, two in each element. Those in the larger element would use the whole of the area covered by its roof. The front elevation of those in the smaller element would be set back, with the roof effectively creating a covered terrace in front of them. Internal division of the barn would result in the larger dwellings having three bedrooms as well as bathrooms and open plan kitchen-dining-living rooms, with the smaller dwellings having bathrooms and open plan kitchen-dining-living rooms, but just two bedrooms.
7. Class Q of Part 3 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended ('GPDO') sets out the permitted development rights for 'buildings on agricultural units and former agricultural buildings to dwellinghouses'. Amongst its terms, it permits a change of use of a building to a residential use together with building operations reasonably necessary to convert the building or to extend that building.
8. The scope of this permitted development right is then explained, followed by an examination as to when development is not permitted by Class Q, the conditions to which the rights are subject and how to interpret the class.
9. Class Q is one of a number of classes in the GPDO where permitted development rights are dependent on following a prior approval process. Paragraph W of the GPDO then sets out the provisions to be followed by a developer for a determination as to whether the prior approval of a local planning authority would be required.
10. That paragraph sets out that the development that is the subject of the prior approval submission must not occur before the following of one of: (a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required; (b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or (c) the expiry of 56 days following the date on which the application under sub-paragraph (2) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.
11. The first test for a developer is to show that a proposal would be permitted development. If this is the case, then it has to be demonstrated that the terms of Classes Q1 and Q2 are met.
12. In respect of the 2023 application, it is common ground that the Council erred in its registration process. It received the application on 23 August 2023 and, therefore it should have been registered from the 24 August 2023. The 'clock' would then stop at midnight on the 56th day, which is to say the 18 October 2023.
13. The Council wrote to the Appellant, or applicant as he was at that time, asking if he would agree to an extension of the time period in which to make its decision. He agreed to the request, but not until 19 October 2023 by which time the 56 days had elapsed. Notwithstanding this, the Council 'refused' the application by decision notice dated 17 November 2023.

14. The terms set out in the 'decision notice' were that, whilst the terms of Classes Q1 and Q2 were met by the proposal, the Council found that it was not permitted development because of the quantum and nature of the building works involved.
15. This posed a conundrum for the Appellant, as if he were to commence work on the conversion he might face the prospect of enforcement action or, even if this did not occur, the decision might make selling the resultant dwellings difficult.
16. The Appellant's situation at that time is succinctly set out in legal advice¹ given to the Appellant and submitted with his appeal, "By the time that you agreed an extension of time, you were already on day 57 and so IF our development complied with Class Q then it would have deemed consent". That advice suggested making the application for a certificate of lawfulness that forms the subject of this appeal.
17. Having appraised the Appellant's scheme, I agree with the parties that it would accord with the terms of Classes Q1 and Q2. Therefore, the matter to be determined in the appeal is whether the works proposed to the barn would be permitted development under Class Q at the time that that application was made.
18. The Council's position is that the proposed building works would exceed what might be described as "building operations reasonably necessary to convert the building", a phrase common to both the 2024 version of the GPDO and its predecessor. The result, the Council says, would be the rebuilding of the barn, rather than its conversion.
19. The 2023 application was accompanied by a structural survey of the existing building. When read in association with the drawings that were submitted, it provides sufficient information as to those elements of the building to be retained and their condition.
20. Given the building's open-fronted design, it is unsurprising that its south elevation, as well as those open areas on the east and west elevations are to be enclosed with new walls. Save for the provision of quite large windows and doors on the south elevation and windows on the east elevation, the new walls would be finished in timber boarding to match that which exists on the building.
21. That part of the new wall along the south frontage that would serve the smaller dwellings is set well-back from the outside of the existing barn. Both parties agree, internal works are permissible under Class Q. The case of *Hibbitt v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2853 and the terms of the Government's Planning Practice Guidance in respect of internal works are cited in submissions. As a matter of fact and degree, given that it would be set back by some metres within the existing building's footprint, I find the south wall of the smaller units would be internal work.
22. Where existing timber and block walls are to be retained, the drawings indicate that new walls will be constructed inside them. Whilst the structural survey states that these internal walls would provide a degree of increased stability and strength to the building, that is not their sole purpose. They would provide weatherproofing and insulation to the dwellings. Furthermore, the structural survey shows that, taken overall, the building has the structural integrity needed for conversion. Those

¹ Stephens Scown letter dated 1 February 2024

matters that have been identified as requiring remedial treatment, such as repairs to the bases of some timber supports, works to timber purlins and metal columns suffering from impact damage, all of which I could see at my site visit, are relatively minor works.

23. I could see the purlins that require remedial works or replacement, as well as the effects that their failure had on the roof covering that would need attention. Again, I find these to be relatively minor works. The insertion of window and rooflight openings into existing external walls and the roof are, to my mind, only to be expected in this form of conversion.
24. I can see parallels between this appeal and those that the Appellant submitted with his statement of case². However, their content supports my position that each case has to be assessed on its individual merits. That is how I have approached this decision.
25. Overall, as a matter of fact and degree, I find that the quantum and nature of the works that are proposed would fall within the terms of building operations reasonably necessary to convert the building rather than amounting to a rebuild. Although I have found the new south wall to the smaller dwellings to be internal works, this is not determinative in my decision. Were I have found differently, my overall finding would still have been that, as a matter of fact and degree, the quantum and nature of the building works would have fallen within the scope of permitted in Class Q. Therefore, I find that the Appellant makes his case on the balance of probability.

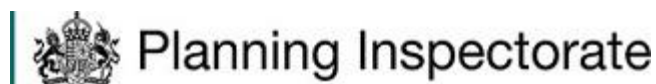
Conclusion

26. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed change of use of an agricultural barn and associated works to 4 dwellings with associated operations is not well founded. The appeal should succeed, and I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

R Curnow

INSPECTOR

² APP/N4720/W/19/3219850 – Land at Bardsey, Leeds
Cornwall Council planning applications PA22/01692 and PA23/06223



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 18 March 2024 the proposed change of use of an agricultural barn and associated works to 4 dwellings with associated operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development proposed accords with the terms of Class Q of Part 3 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended and are, therefore, permitted development for which prior approval is not required.

Signed

R Curnow

Inspector

Date: 2 October 2026

Reference: APP/Y1138/X/24/3350139

First Schedule

Proposed change of use of an agricultural barn and associated works to 4 dwellings with associated operations

Second Schedule

Land at Chaldon Farm, Cullompton, EX15 1RB

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 2 October 2026

by R Curnow

Land at: Chaldon Farm, Cullompton, EX15 1RB

Reference: APP/Y1138/X/24/3350139

Scale: Not to Scale

