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## Appeal Decision

Site visit made on 4 August 2020

**by Rachael Pipkin, BA (Hons), MPhil, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8<sup>th</sup> September 2020**

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**Appeal Ref: APP/X1118/W/20/3251008**

**North Week Farm House, Lane from Week Cross to South Week,  
Chulmleigh, EX18 7EE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mr M Askew against the decision of North Devon District Council.
  - The application Ref: 70907 dated 11 December 2019, was refused by notice dated 5 February 2020.
  - The development proposed is change of use of an existing agricultural building to two dwellings.
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### Decision

1. The appeal is dismissed.

### Background and Main Issues

2. Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwelling/houses) of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended and any building operations reasonably necessary to convert the building. There is no dispute between the main parties that the proposal meets the requirements of paragraph Q.1. and therefore, that it constitutes permitted development under Class Q, subject to the prior approval of certain matters.
3. Paragraph Q.2.(1) lists conditions under which the development must apply to the local planning authority for a determination as to whether prior approval will be required as to the impact of the development on various matters. The Council's decision notice indicates that prior approval was refused in respect of matters (a) transport and highways impacts of the development. A further reason for refusal related to the lack of evidence to demonstrate whether or not there would be any harm to protected species.
4. Therefore, the main issues are whether or not the appeal building is suitable for conversion to a dwelling, having regard to its effect on:
  - highway safety; and
  - protected species.

## Reasons

### *Highway safety*

5. The appeal building is one of a number of barns set around a courtyard within North Week farm, one of which has permission for conversion. A further farmhouse is located at South Week. Together these form a small cluster of agricultural buildings within a rural setting accessed via a long narrow, single-track country lane off the crossroads at Week Cross.
6. The proposed development would convert a barn into two dwellings. These would be accessed via the existing lane. This would be in addition to the two existing dwellings, South Week and North Week Farmhouse, which already use the lane and two additional barn conversions for which prior approval has already been granted<sup>1</sup>.
7. The Council considers that the addition of two dwellings would increase the number of vehicle movements from two to four movements per day for two agricultural buildings to a combined twelve to sixteen movements a day for two dwellings. This increase in vehicle movements in combination with the existing and approved schemes would significantly increase the volume of traffic using the narrow lane and junction at Week Cross.
8. The appellant has highlighted that there has been a reduction in traffic utilising the lane as 107 acres of forestry and agricultural land previously accessed via this lane has been sold and is now only accessed from two other access points. From the evidence, it appears that this area of land benefitted from an alternative access.
9. Whilst I accept that there may have been some reduction in vehicle movements associated with this transfer of land, I have been provided with no details of how much traffic activities associated with this land used to generate along the lane from Week Cross and by how much it has reduced. In any case, the day-to-day movements associated with two domestic dwellings are likely to be considerably more frequent albeit in smaller and less intrusive vehicles than agricultural vehicles, particularly given that services and facilities can only be accessed via a private car. This leads me to conclude that the proposed development would result in a more intensive use of the lane.
10. Visibility for vehicles emerging from the lane onto Week Cross is severely restricted due to the narrowness of the lane and hedging and vegetation along its edge. Traffic speeds along the lanes are acknowledged to be low due to the characteristics of the lanes and the Council has accepted that a lower visibility splay based on speeds of 30 mph would be appropriate. The visibility to the right is indicated to be 12 metres and to the left, 5 metres. This falls significantly below the recommended visibility requirement of 2.4 metres x 43 metres in either direction for this speed of traffic as set out in the Manual for Streets (MfS).
11. Even adopting a flexible approach to the guidance in the MfS based on the low speeds and low traffic volumes, I am not satisfied that there is adequate visibility at this junction to allow for safe egress for emerging vehicles. Whilst I accept this junction is already used in association with the existing residential and agricultural uses, the cumulative effect of the additional traffic associated

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<sup>1</sup> Council Ref 61198 and 65858

with the proposed development would increase the risk of conflict with other road users at this junction. This would have an unacceptable impact on highway safety.

12. The lane leading to the appeal site has no formal passing places and is enclosed on either side by high hedge banks and has limited forward visibility. When vehicles meet in this lane, they can only pass each other by driving onto the ground either side of the hard-surfaced track. The appellant has identified 4 locations along the lane where this can occur, all of which are soft verges rather than bound surfaces. One of these areas is in front of a gated access to a field. The proposed passing places appear to be of varying dimensions.
13. With vehicles regularly driving onto these verges, the ground would become damaged. I observed evidence of this at my site visit. Furthermore, during winter time or periods of inclement weather these verges would become muddy and potentially unpassable by some vehicles. It therefore seems to me that when vehicles meet in this lane it is difficult for them to pass each other. This would be more even more difficult where larger agricultural machinery or vehicles towing trailers such as would be associated with the agricultural activities of the existing farm.
14. In the absence of adequate passing places, when vehicles or other road users' approach from opposite directions there would be conflict. This would be likely to result in vehicles having to reverse along the lane which would be unsafe and lead to an increased risk of conflict with other road users, including pedestrians, cyclists or horse riders. Whilst I appreciate that this may occur already given the existing activities at the end of the lane, it would be exacerbated by the increase in vehicle movements associated with the addition of two further dwellings. This leads me to conclude that the passing places do not allow for safe and suitable access to the site.
15. I appreciate that the junction and the lane have served the existing residential and agricultural uses for many years. I also acknowledge that no adverse highway impacts were raised in the consideration of the two approved conversion schemes and that there have been no physical changes to the lane since these schemes were approved. I also note that emergency vehicles can and have accessed the site. However, I must assess the scheme before me on its own individual merits which I have done.
16. The proposed development would result in a more intensive use of this lane which does not have satisfactory passing places or adequate visibility at its junction at Week Cross. This would increase the risk of conflict between users of the highway. As such, I conclude that the proposed development would significantly harm highway safety. It would therefore conflict with the National Planning Policy Framework which requires safe and suitable access to the site for all users and sets out that development should be prevented if there would be an unacceptable impact on highway safety.

#### *Protected species*

17. The appeal buildings are made up of three traditional barns constructed of stone and cob with a timber trussed roof finished in slate tiles and corrugated sheeting. The buildings, whilst structurally sound, have gaps and cracks within the walls and roof as well as sizeable openings on their front elevations.

18. The Council has raised ecological concerns as a reason for refusal on the basis that the barns are traditional buildings with suitable features for use by protected species. No surveys have been provided with the appeal documentation.
19. I acknowledge that protected species are not specifically referred to in the GPDO. However, I am mindful that Regulation 9 of the Conservation of Habitats and Species Regulations 2017 imposes a statutory duty on the competent authority to "exercise their functions which are relevant to nature conservation....so as to secure compliance with the requirements of the Directives". Accordingly, competent authorities must consider the Directives in making decisions relating to any of their planning functions.
20. In view of the Council's concerns about protected species, as the competent authority, I must consider the Directives and whether there is a reasonable likelihood of European protected species being present and affected by the proposed development.
21. The traditional form of the appeal buildings, with a large timber framed roof area offering unencumbered flying space, as well as the cracks, crevices and dark spaces would, in my view, offer a suitable habitat for wildlife especially for bats which are European protected species. Consequently, I cannot give approval without adequate evidence demonstrating that the Regulations will not be breached.
22. The proposed scheme would deliver two dwellings which would provide some limited social and economic benefits. However, I have been provided with no substantive evidence of the need for and the extent of the benefits of the scheme to outweigh any adverse impact on protected species
23. I acknowledge that the Council did not specifically request additional information about ecology or protected species at the application stage. The Council states it did not request this due to fundamental highway concerns with the proposed scheme. Whilst I appreciate this is frustrating for the appellant, this is essentially a procedural matter that does not relate to the planning merits of the appeal proposal.
24. In the absence of any survey information regarding ecology or protected species, I cannot be satisfied that there would not be a material adverse effect on protected species. Consequently, I conclude that the proposed development would be in conflict with Policy DM08 of the North Devon and Torrington Local Plan 2018 which seeks to conserve, protect and enhance biodiversity and avoid, wherever possible, adverse impacts on protected species.

## **Conclusion**

25. For the reasons set out above, I conclude that the appeal should be dismissed.

*Rachael Pipkin*

INSPECTOR