



Appeal Decision

Site visit made on 15 October 2024 by S Wilson LL.B. MSc MRTPI

Decision by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Appeal Ref: APP/X1118/W/24/3345144

Poppy's View, Shirwell Road, Barnstaple, EX31 4JH

- 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 Malcolm Lane against the decision of North Devon District Council.
 - The application Ref is 78444.
 - The development proposed is prior approval for change of use of agricultural building to a residential dwelling(class Q).
-

Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. On 21 May 2024, The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024/579 came into force. However, the application was made on 11 March 2024 and therefore is to be assessed against the legislation as it existed at that date. For clarity, that legislation is referred to in the remainder of this decision as The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO 2015).

Main Issue

4. Schedule 2, Part 3, Class Q of the GPDO 2015 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 (dwellinghouses) (Class Q(a)) together with any building operations reasonably necessary to convert the building (Class Q(b)).
5. Should the development fall under Class Q, Paragraph Q.1. sets out limitations to the permitted development right. If the proposal is found to accord with Paragraph Q.1., it is necessary to go on to consider Paragraph Q.2.(1) which lists conditions under which the developer must apply to the local planning

authority for a determination as to whether prior approval will be required as to the impacts of the development.

6. The Council assessed the proposal as complying with the limitations of Paragraph Q.1. The reason for refusal states that the proposal would have unacceptable transport and highways impacts and would not satisfy the prior approval matters at Paragraph Q.2.(1)(a).
7. The main issue is whether prior approval should be given having regard to transport and highway impacts.

Reasons for the Recommendation

Transport and Highways Impacts

8. I noted that the access was very steep, was surfaced with loose material and that visibility was very limited in both directions. The evidence sets out that there is a 40-mph speed limit in effect on the road. The road is busy with no pedestrian footway, and I did not feel safe to enter the road to view the access from different locations, such as the speed and intensity of the traffic and lack of visibility. Upon exiting the site, by motor vehicle, it was necessary to take a leap of faith to enter the highway and to accelerate hard to get up to traffic speed.
9. The appellant contests that planning application reference 77082 demonstrates that the access is acceptable. That approved application proposed an improved vehicular access serving four existing private dwellings and an existing agricultural holding. The appellant further contests that whilst this application did not propose any development apart from the access works itself, there was no indication from the Council that the access, despite its improvements would not normally be deemed acceptable to serve four dwellings.
10. Even if that is the case, there is no doubt in my mind that however the circumstances unfolded that allowed four dwellings and an agricultural holding to be accessed at this location, it is an unsuitable access. The fact that an application was made to improve the access to these properties can only be assessed as an improvement, but it remains, nonetheless, unsuitable. The proposal would increase the volume of residential traffic entering and leaving the highway at this location, through an access that does not provide adequate visibility in either direction. There would be a consequential danger to all users of that road.
11. For these reasons, the proposal would have an unacceptable impact on highway safety and would be contrary to the National Planning Policy Framework which requires safe and suitable access to the site for all users. I conclude that the proposal would not be acceptable with respect to transport and highways impacts. Prior approval should not therefore be given.

Other Matters

12. The appellant has referred to an application for an agricultural building at the site that was approved under planning application reference 77196, and maintains that the Council were content that the access was acceptable in terms of highway safety. I have only been provided with very limited details regarding that application. However, it does not appear that the matters are comparable given that that application was for an agricultural building for

which number of vehicle movements are likely to differ when compared to a residential use.

Conclusion and Recommendation

13. The proposal would be a development of the type permitted in principle by Class Q and would satisfy the limitations of Paragraph Q.1. However, I have found that the transport and highways impact of the development would be unacceptable and would not meet condition Q.2.(1)(a) of Class Q. Prior approval should not therefore be given. For these reasons, and having regard to all other matters raised, the appeal is dismissed.

S Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

Mr A Spencer-Peet

INSPECTOR