



## Appeal Decisions

Site visit made on 12 October 2022

**by Alison Fish BA (Hons) DipTP MRTPI**

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

**Decision date: 22 November 2022**

---

### **Appeal A - Ref: APP/W1145/W/22/3292348**

#### **Beech House, Halwill EX21 5UG**

- 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 (as amended).
  - The appeal is made by Mr & Mrs Down against the decision of Torridge District Council.
  - The application Ref 1/1098/2021/AGMB, dated 20 September 2021, was refused by notice dated 17 November 2021.
  - The development proposed is change of use of an agricultural building to 2 no. dwellinghouses and associated building operations.
- 

### **Appeal B - Ref: APP/W1145/W/22/3292349**

#### **Beech House, Halwill EX21 5UG**

- 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 (as amended).
  - The appeal is made by Mr & Mrs Down against the decision of Torridge District Council.
  - The application Ref 1/1076/2021/AGMB, dated 20 September 2021, was refused by notice dated 17 November 2021.
  - The development proposed is change of use of agricultural building to 1 no. dwelling and associated building operations.
- 

### **Decisions**

1. Appeal A is allowed and approval granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of an agricultural building to 2 no. dwellinghouses and associated building operations at Beech House, Halwill, EX21 5UG in accordance with the details submitted through application 1/1076/2021/AGMB dated 20 September 2021.
2. Appeal B is dismissed.

### **Applications for costs**

3. Applications for costs in respect of both appeals were made by Mr and Mrs Down against Torridge District Council. These applications are the subject of a separate Decision.

### **Background and Preliminary Matters**

4. I have used the site address provided by the appellant on the appeal forms as it is more succinct than the one provided on the application forms.

5. I have considered the two appeals concurrently, but on their own merits, because there are common matters between them. Both appeals relate to proposals advanced under Paragraph Q.(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). This being a change of use of the buildings to dwellings and building operations reasonably necessary to facilitate this. The Council are satisfied that the proposals would not fall foul of the limitations set out in Paragraph Q.1 save for Q.1.(g) in respect of Appeals A and B and Q.1.(i) in respect of Appeal B.

### **Main Issues**

6. Thus, the main issues in these appeals are:
- Appeal A and B - Whether the proposals would constitute permitted development when applying Class Q.1.(g) of the GPDO; and,
  - Appeal B only – Whether the proposal would constitute permitted development when applying Class Q.1.(i) of the GPDO with regards to the extent of the building operations proposed.

### **Reasons**

#### *Permitted Development*

7. Appeal A relates to a part single storey and part two storey agricultural building (Barn A) constructed mainly of concrete block with some areas of brick and stone.
8. Appeal B relates to a more modern steel-framed agricultural barn (Barn B). The Council submit that alterations have taken place to Barn B to provide a new external wall to the building. From a review of all the Council's submissions the new wall relates to an area of vertical timber boarding on part of the elevation marked 'south' on the existing plans and elevations drawing (unnumbered). There is no dispute between the parties that the timber boarding was in situ for a period of time and that it has subsequently been removed. No boarding was in place at the time of my site visit.
9. The appellant has confirmed that their agricultural holding extends to in excess of five hectares. As such, Part 6 Class A is relevant and allows works for the 'erection, extension or alteration of a building' which are reasonably necessary for the purposes of agriculture within that unit.
10. Part 6 Paragraph A.2.(1) states that in order for development to be permitted by Class A, it is subject to a number of conditions including the one in Paragraph A.2.(7) which requires that the developer *must* [my emphasis] notify the local planning authority within 7 days of the substantial completion of the development. This is a condition of the works being permitted under Part 6 Class A of the GPDO. If this did not take place, then the development is not permitted development under Part 6. Both main parties are clear that no such notification was carried out and I have no evidence to the contrary. As such, I conclude that the works do not constitute permitted development under Part 6 of the GPDO because they were not authorised as such and are no longer in situ.

11. I therefore conclude that the works carried out to provide timber boarding to the 'south' elevation did not constitute development under Part 6 of the GPDO. On this basis, neither the scheme in Appeal A nor B would fall foul of Paragraph Q.1.(g) of the GPDO. Appeal A therefore succeeds.

*Building Operations with regards to Appeal B*

12. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken as part of a residential conversion under Class Q of the GPDO. It states that development is not permitted if it would consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and partial demolition to the extent reasonably necessary to carry out building operations, as listed above.
13. The Planning Practice Guidance (the PPG) advises that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use.
14. The appeal relates to a steel framed barn enclosed on three sides. Concrete panels enclose the lower sections of the three sides with profiled sheet cladding enclosing the top sections. The elevation marked 'south' on the submitted drawings is open.
15. It is clear from the drawings that the 'south' elevation would need to be wholly constructed. In addition, the proposed insertion of a significant glazed area in the 'north' elevation suggests to me that the existing concrete panels and profiled sheet cladding on that elevation would be removed almost in their entirety. There is no information before me on whether this would affect the structural integrity of the building.
16. In addition, the full extent of the proposed building operations is unclear. The appellants' Planning Statement refers to the 'significant use of existing materials'. However, within the appellants' other submissions there is a suggestion that some of the external materials would be replaced for aesthetic purposes and to allow the incorporation of new windows and door openings and there is also reference to the use of 'insulated profiled sheeting'. The extent to which the existing materials would be retained is unclear. As such, I cannot be certain that what is before me would amount to a conversion or whether it would constitute a rebuild, having regard to the approach set out in *Hibbitt v SSCLG* [2016] EWHC 2853 (Admin).
17. A great number of prior approval applications relating to Class Q of the GPDO granted by the Council and other local authorities have been drawn to my attention by the appellant. However, each of those schemes were accompanied by a structural report or assessment which informed the assessments of the relevant Council's.
18. The appeal proposal is not supported by a structural survey or a detailed schedule of works so it is not clear from the submissions the extent of the works required. Whilst such details are not compulsory, paragraph W.(3) in Part 3 of the GDPO places the onus on the appellant to provide sufficient information to demonstrate that the proposal complies with any conditions,

limitations or restrictions specified in Part 3. In the absence of specific details regarding the structural integrity of the building and the full extent of the proposed works, I cannot conclude that the building operations required to convert the building the subject of Appeal B to a dwelling are reasonably necessary and as such Appeal B must fail.

### **Other Matters and Conditions in respect of Appeal A**

19. For permitted development under Class Q, paragraph Q.2(1) of the GPDO requires prior approval of various matters. These include part (e) which requires consideration of whether the location or siting of the building would make it otherwise impractical or undesirable for the building to change to a Class C3 (dwellinghouse) use. Paragraph W.(13) of the GPDO allows prior approval to be granted subject to conditions reasonably related to the subject matter of prior approval.
20. Barn A is grouped together with the farmhouse, Barn B and another agricultural building around a yard area. There was no livestock in the agricultural buildings at the time of my visit but the Council have indicated that they would have concerns about the impact that this could have on the living conditions of the future occupiers of Barn A. This they say would make it undesirable for Barn A to change from agricultural use to a use falling within Class C3 (dwellinghouse). Given that appeal B has failed, I have also considered whether the use of Barn B for livestock would have an undesirable impact on the living conditions of occupiers of the two dwellings.
21. Barn A is located at the entrance to the yard, opposite the existing house. The use of the agricultural buildings for the housing of livestock would give rise to some noise and smells. However, given the relatively modest scale of the two agricultural buildings, I find that the level of disturbance to occupiers of the dwellings would not be unusual in a rural setting such as this and as such, a condition preventing the housing of livestock in the adjacent buildings is not justified.
22. The appellant should however note that the GPDO requires (at Paragraph Q.2) that development is permitted under Class Q subject to the condition that it must be completed within a period of 3 years starting with the prior approval date. Moreover, Class W of the GPDO states that where prior approval is required, the development must be carried out in accordance with the details submitted. In this instance these are the unnumbered drawings submitted with the application.

### **Conclusion**

23. I am satisfied that both Appeal A and Appeal B constitute permitted development under Class Q.1.(g) of the GPDO. Appeal A is therefore allowed. However, in respect of Appeal B insufficient information was provided to satisfy me that the building operations proposed to convert the building to a dwellinghouse were reasonably necessary in respect of Class Q.1.(i) of the GPDO. As such, Appeal B must fail.

*Alison Fish*

INSPECTOR