

**APPEAL DECISIONS FOR COMMITTEE AGENDA –15 July 2015**

<b>APPEAL</b>	<b>PROPOSAL</b>	<b>REASON(S) FOR INITIAL DECISION</b>	<b>APPLICATION NUMBER</b>	<b>INSPECTOR'S REMARKS</b>
APP/D3315/D/15/3 006226	ERECTION OF SINGLE STOREY EXTENSION AND THREE STOREY EXTENSION TO THE REAR OF 17 HIGH PATH, WELLINGTON	The proposed extension, by reason of its size and location would reduce light to the adjoining 18 High Path to an unacceptable degree and would have an unacceptable adverse overbearing impact upon that neighbouring dwelling. The amenities of 18 High Path would be harmed to an unacceptable degree, contrary to Retained Policy H17 of the Taunton Deane Local Plan and Policy DM1 of the Taunton Deane Core Strategy.	43/14/0131	Allowed. See letter on Acolaid
APP/D3315/A/14/2 229073	PRIOR APPROVAL FOR PROPOSED CHANGE OF USE FROM AGRICULTURAL BUILDINGS TO DWELLING HOUSES (USE CLASS C3) AND ASSOCIATED BUILDING OPERATIONS AT FITZROY FARM,	The conversion of the buildings to residential use, by virtue of their isolated location within open countryside, distant from services and sustainable settlements, would result in an unsustainable pattern of development where occupiers of the dwelling houses would be heavily reliant upon the use of private motor vehicles. As such, the siting of the buildings make it	25/14/0030	Allowed. See letter on Acolaid

	TAUNTON	impractical and undesirable for the change to residential use, being contrary to Policy 55 of the NPPF which seeks to prevent the creation of new isolated homes in the countryside.		
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# Appeal Decision

Site visit made on 5 May 2015

**by J J Evans BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20 May 2015**

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**Appeal Ref: APP/D3315/D/15/3006226**  
**17 High Path, Wellington, Somerset TA21 8NH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Christina Gross against the decision of Taunton Deane Borough Council.
  - The application Ref 43/14/0131, dated 28 November 2014, was refused by notice dated 16 February 2015.
  - The development proposed is "single storey and three storey rear extensions to form dining / kitchen and bedroom facilities. NB front elevation remains unaltered".
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## Decision

1. The appeal is allowed and planning permission is granted for single storey and three storey rear extensions to form dining / kitchen and bedroom facilities, at 17 High Path, Wellington, Somerset TA21 8NH, in accordance with application Ref 43/14/0131, made on the 28 November 2014, and subject to the following conditions:-
  1. The development hereby permitted shall begin not later than three years from the date of this decision.
  2. The development hereby permitted shall be carried out in accordance with the following approved plans (except where directed otherwise by the conditions below): PL/2014/143\_101\_03 and PL/2014/143\_104\_F 04.
  3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  4. The windows in the side elevations of the extensions shall have restricted openings and shall be obscured glazed, details of which shall be submitted to and approved in writing by the local planning authority before the commencement of any development. The development shall be undertaken in accordance with these approved details and shall be retained as agreed thereafter.
  5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking, re-enacting or modifying that Order, no windows, dormers, or rooflights other than those expressly authorised by this permission shall be installed on the side elevations of the building.

## **Procedural Matter**

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) came into force in April 2015. This consolidated the 1995 (as amended) GPDO that the Council determined the proposed scheme under. Consequently, I have determined the appeal on the basis of the current legislation.
3. The application refers to the first name of the appellant as being Christine Gross. However, the appeal form and the grounds of appeal refer to the appellant as being Christina. As the appeal documents were prepared by Mrs Gross, I have referred to her by the name cited in them.
4. The description of the proposal on the application and appeal forms refers to the front elevation of the house being unaltered. I have not included this reference above, as it does not refer to an act of development.

## **Main Issue**

5. The main issue is the effect of the proposed rear extensions on the living conditions of the occupiers of neighbouring properties, with particular regard to daylight, privacy and outlook.

## **Reasons**

6. The appeal property lies within a residential area comprising a mix of mostly houses and bungalows. 17 High Path is a two storey double fronted detached brick and slate house, centrally positioned within the width of its plot. It is part of a long row of similar styled and aged large detached and semi-detached houses elevated above the road behind regular shaped front gardens. To the rear, the deep garden of No 17 is a similar size to its neighbours, and is bounded by high brick walls.
7. The similarity of the houses along High Path, including their rich architectural detailing, their size and spacing, gives an attractive and rhythmical character and appearance to the area. To the rear, many of the semi-detached houses have deep two storey back additions, including Nos 18 and 16, with some properties having been extended beyond them.
8. The proposed rear extensions would be constructed of brick, render and natural slate, with Victorian style sash windows. Although three stories in height, the proposed ridge would be set below that of the existing house, with the side wall stepped in. The third floor window would be much smaller than those below it, thereby having the appearance of an attic room. The single storey extension element with its sloping lean-to roof would be subservient to both the house and the proposed three storey extension. Despite their size, the proposed extensions would not project beyond the depth of the neighbouring houses. The proposal would, therefore, maintain the character and appearance of the house and the surrounding area.
9. However, the occupiers of the properties either side of the appeal property are concerned that the proposed extensions would result in an unacceptable loss of light and be an overbearing outlook. Both Nos 18 and 16 have ground floor side windows that overlook the appeal site. Like the appeal property, each house is set away from the side boundary, which in both cases is delineated by a high boundary wall. I accept there would be some loss of light to these

ground floor windows, particularly in the winter, and that the extensions would be much taller than the existing conservatory. However, the separation of the houses from each other would be maintained by the proposed extensions, and there is already a loss of light and outlook to these windows with regard to the existing boundary wall and the deep two storey rear extension to No 16. The use of white painted render to the sides of the proposed extensions would reflect some light into the neighbouring properties. Furthermore, in addition to the side windows serving the kitchen of No 18, it also benefits from other windows. Taken together, the impact of the proposed extensions on the daylight and outlook of the neighbouring residents would not be a significant and harmful loss over and above the existing situation.

10. I have also had regard to the concerns of neighbouring residents as to loss of privacy. However, there are a number of windows in the appeal building and also within those of the neighbouring houses that give mutual overlooking for occupiers between the properties. The proposed first floor side windows within the extensions would serve a bathroom and landing, whilst those to be inserted within the main house would be for an ensuite and bathroom, and all would be obscure glazed. As such there would not be an unacceptable loss of privacy to the occupiers of the surrounding properties.
11. Local residents are concerned that the future occupiers of the extended house would increase noise and disturbance in the area. Whilst there would be likely to be some increase with potentially more occupants of the appeal house, it would occur within an established residential area and would be experienced within this context. As such it would be unlikely to significantly increase noise and disturbance in the area.
12. I therefore find the proposed extensions would not unacceptably harm the living conditions of neighbouring residents with regard to daylight, privacy and outlook. The proposal would accord with the requirements of Policies H17 of the Taunton Deane Local Plan (2004) and DM1 of the Taunton Deane Core Strategy (2012). These policies seek amongst other things and like an objective of the National Planning Policy Framework (the Framework), a good standard of amenity for all existing and future occupants of land and buildings.

### **Other Matters**

13. Local residents refer to subsidence problems. However, in the absence of substantive evidence that the extensions would cause problems of this sort, I can only afford this matter limited weight.
14. Concerns regarding the Council's handling of the application and relationship with the Town Council are procedural matters and have no bearing on my consideration of the planning merits of the case.
15. The degree of harm would not, therefore, be so serious as to justify dismissing the appeal on these points alone.

### **Conditions**

16. The conditions suggested by the Council have been considered against paragraph 206 of the Framework. Where necessary and in the interests of clarity and precision they have been altered to better reflect these requirements. I have imposed the standard time limit condition and one

requiring the development to be carried out in accordance with the approved plans, so as to avoid doubt and in the interests of proper planning.

17. I have also imposed a condition requiring matching external materials, to ensure that the extensions harmonises with the character and appearance of the host building and that of the surrounding area.
18. To protect the living conditions of the occupiers of nearby houses, I have imposed a condition requiring obscure glazed and restricted opening windows within the side elevations of the extensions, and have removed permitted development rights as regards the insertion of additional openings.

**Conclusion**

19. For all the reasons given above, I therefore conclude that the appeal should be allowed.

*J J Evans*

INSPECTOR



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## Appeal Decision

Site visit made on 26 May 2015

**by Mike Fox BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 June 2015**

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**Appeal Ref: APP/D3315/A/14/2229073**

**Fitzroy Farm, Fitzroy, Norton Fitzwarren, Somerset, TA2 6PH**

- 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.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mr and Mrs Andrew Ritchie against the decision of Taunton Deane Borough Council.
  - The application Ref 25/14/0030/CMB, dated 1 September 2014, was refused by notice dated 31 October 2014.
  - The development proposed is change of use from agricultural buildings to dwelling houses (Use Class C3) and associated building operations.
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### Decision

1. The appeal 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 for change of use from agricultural buildings to three dwelling houses (Use Class 3) and associated building operations at Fitzroy Farm, Fitzroy, Norton Fitzwarren, Somerset, TA2 6PH, in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph W of the GPDO, subject to the following conditions:
  - 1) The development hereby approved shall begin not later than three years from the date of this decision.
  - 2) The development hereby approved shall be carried out in accordance with the following approved plans, with drawing numbers in brackets: *Location Plan* (10; Rev C); *Existing Site/Block Plan Barns A, B & C* (11; Rev A); *Proposed Site/Block Plan Barns A, B & C* (12 Rev B); *Existing Barns A, B & C* (13; Rev A); *Existing Elevations Barn A* (14; Rev A); *Existing Elevations Barns B & C* (15; Rev A); *Proposed Elevations Barn A* (16); *Proposed Elevations Barns B & C* (17; Rev A); and *Proposed Site Plan* (18).
  - 3) Prior to the dwellings hereby approved first being occupied, the access, driveway and parking areas shall be fully hard surfaced. The areas shall be made of porous material, or alternatively provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellings or within an alternative area acceptable to the local planning authority. The area allocated for parking shall remain unobstructed and available for the parking of

vehicles in association with the development hereby permitted, unless otherwise agreed in writing by the local planning authority.

### **Application for costs**

2. A late application for costs was made by Mr and Mrs Andrew Ritchie against Taunton Deane Borough Council. The Inspectorate's Decision Officer, however, in his letter of 13 April 2015, has written to state that the Appellant has failed to demonstrate that there is a good reason for accepting the late costs application for consideration, and that no further action can be taken on it.

### **Procedural Matters**

3. The application to the Council was made under Schedule 2, Part 3, Class MB of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). However, that statutory instrument has been largely replaced with the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015<sup>1</sup>. Equivalent provisions are now included within Schedule 2, Part 3, Class Q of that Order (hereafter referred to as Class Q). The relevant legislation provides for anything done under the previous provisions to be treated as if done under the new provisions, so an application made under Class MB has effect as if made under the new Class Q. I have proceeded on this basis.
4. Class Q 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 house) of the Schedule to the Use Classes Order<sup>2</sup> and building operations reasonably necessary to convert the building.

### **Main Issue**

5. The Council raises no concerns regarding the tests in what is now paragraph Q.1, including whether the appeal buildings have been in sole agricultural use at the material date (20 March 2013); the cumulative number of separate dwelling houses developed under Class Q does not exceed three; the cumulative floorspace changing use does not exceed 450 sq m; and the proposed building operations are reasonably necessary to convert the buildings to dwelling houses. I have no reason to take a different view.
6. In relation to the criteria under paragraph Q.2 (1), the Council has raised no concerns in relation to transport and highways and noise impacts of the development; contamination and flooding risks on the site; and the design or external appearance of the buildings. Again, I have no reason to take a different view.
7. Prior approval was refused solely on the grounds that the location would be impractical or undesirable for it to change from agricultural use to a dwelling (criterion (e) in paragraph Q.2.). This is the main issue for consideration in this appeal.

### **Reasons**

8. The appeal site forms part of a cluster of agricultural buildings and stables, centred on the main farmhouse, Fitzroy Farm, within the open countryside.

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<sup>1</sup> S.I. 2015 No. 596.

<sup>2</sup> SI 1987/764 – The Town and Country Planning (Use Classes) Order 1987, as amended.



- The properties are connected to the A358 Taunton-Minehead main road by a short country lane. The proposal is to convert four agricultural buildings into three dwellings, comprising one 2 bed, one 3 bed and one 5 bed dwelling.
9. The Council's concern is that the proposed development would be contrary to paragraph 55 of *the Framework*<sup>3</sup>, which states that national planning policy is to avoid isolated new homes in the countryside. The Council's view is that the site is in an unsustainable location because there are no public services within the area.
  10. The Council also points out that there are no safe pedestrian routes between the site and the bus stops on the A358, some 800m distant, and that the grass verges which provide access to them are affected by localised flooding in winter. In addition, pedestrians using buses going westwards would have to cross the busy A358 without the benefit of a formal crossing. Future occupiers would therefore be likely to use cars for most journeys.
  11. The recent amendments to the PPG<sup>4</sup> are relevant to this case. Paragraph 108<sup>5</sup> answers the question: *Is there a sustainability prior approval for the change to residential use?* It states that the permitted development right does not apply a test in relation to the sustainability of a location, and explains that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs.
  12. Paragraph 109<sup>6</sup> answers the question: *What is meant by impractical or undesirable for the change to residential use?* It states that when considering whether it is appropriate for the change of use to take place at a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. It also states that, the fact that an agricultural building is in a location where a local planning authority would not normally grant planning permission for a new dwelling, is not a sufficient reason for refusing prior approval. This provision in my view outweighs the Council's arguments based on the sustainability considerations set out in paragraph 55 of *the Framework*.
  13. The PPG is the most up-to-date guidance on the interpretation of the Class Q provisions and it therefore carries substantial weight. It is also clear from the examples given in the PPG where impact cannot be mitigated, such as an agricultural building at the top of a hill with no road access, power source or other services, that the appeal site does not fall into this category of undesirability. Integral to the PPG's stance, therefore, is whether the proposed conversion from agricultural use to a dwelling would be impractical. Whilst I agree with the Council that there are sustainability considerations that would be brought to bear in the case of a planning application, it cannot be argued that the proposal before me would be impractical in the light of paragraph 109 of the PPG. I therefore consider that the isolated location of the appeal site would not be a justified ground to withhold prior approval.

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<sup>3</sup> DCLG: national Planning Policy framework (*the Framework*); March 2012.

<sup>4</sup> DCLG: national Planning Practice Guidance (PPG); updated 27 March 2014.

<sup>5</sup> PPG Reference ID: 13-108-20150305.

<sup>6</sup> PPG Reference ID: 13-109-20150305.

14. In the light of the above considerations, I conclude in relation to the main issue that there would be no adverse impacts regarding any of the criteria listed in paragraph Q.2 (1) of the GPDO.

### **Other matters**

15. Several letters of objection from local residents express concern over increased vehicular traffic and danger to pedestrians. The highway authority, however, has not expressed concern over these matters and the Council states that the proposal is unlikely to significantly harm highway safety. I see no reason to disagree. I do not consider that the proposal would harm the impact on the character and appearance of the landscape, as the buildings already exist and the proposal would not change their height, footprint or any other feature that would result in visual harm to the character and appearance of the surrounding countryside. Finally, no evidence has been submitted to demonstrate that any wildlife interests would be adversely affected.

### **Conditions**

16. In accordance with the GPDO, development must be carried out within three years of the date of this decision and in compliance with the approved plans, and I have imposed these conditions accordingly.
17. The Council suggested four additional conditions. I have accepted, with modifications, the suggested condition relating to the surfacing of the access, driveway and parking areas and their retention as such, in the interests of highway safety and sustainable drainage.
18. The Council suggested a condition restricting permitted development rights. The PPG advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. As I have no evidence to suggest that exceptional circumstances apply, I have not imposed this suggested condition.
19. The Council suggested two further conditions relating to specific materials for external windows and doors, and guttering, downpipes and rainwater goods. I am not persuaded that this level of detail is necessary to make the application acceptable, and I agree with the Appellants that the imposition of these conditions would place unjustifiable and disproportionate burdens on them. I have therefore not imposed these conditions.

### **Conclusion**

20. For the reasons given above, and having regard to all other matters raised, I conclude that, subject to the appropriate conditions, the appeal should be allowed and prior approval granted.

*Mike Fox*

INSPECTOR



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## Appeal Decision

Site visit made on 5 May 2015

**by J J Evans BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20 May 2015**

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**Appeal Ref: APP/D3315/D/15/3006226**

**17 High Path, Wellington, Somerset TA21 8NH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Christina Gross against the decision of Taunton Deane Borough Council.
  - The application Ref 43/14/0131, dated 28 November 2014, was refused by notice dated 16 February 2015.
  - The development proposed is "single storey and three storey rear extensions to form dining / kitchen and bedroom facilities. NB front elevation remains unaltered".
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### Decision

1. The appeal is allowed and planning permission is granted for single storey and three storey rear extensions to form dining / kitchen and bedroom facilities, at 17 High Path, Wellington, Somerset TA21 8NH, in accordance with application Ref 43/14/0131, made on the 28 November 2014, and subject to the following conditions:-
  1. The development hereby permitted shall begin not later than three years from the date of this decision.
  2. The development hereby permitted shall be carried out in accordance with the following approved plans (except where directed otherwise by the conditions below): PL/2014/143\_101\_03 and PL/2014/143\_104\_F 04.
  3. The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
  4. The windows in the side elevations of the extensions shall have restricted openings and shall be obscured glazed, details of which shall be submitted to and approved in writing by the local planning authority before the commencement of any development. The development shall be undertaken in accordance with these approved details and shall be retained as agreed thereafter.
  5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any order revoking, re-enacting or modifying that Order, no windows, dormers, or rooflights other than those expressly authorised by this permission shall be installed on the side elevations of the building.

### **Procedural Matter**

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) came into force in April 2015. This consolidated the 1995 (as amended) GPDO that the Council determined the proposed scheme under. Consequently, I have determined the appeal on the basis of the current legislation.
3. The application refers to the first name of the appellant as being Christine Gross. However, the appeal form and the grounds of appeal refer to the appellant as being Christina. As the appeal documents were prepared by Mrs Gross, I have referred to her by the name cited in them.
4. The description of the proposal on the application and appeal forms refers to the front elevation of the house being unaltered. I have not included this reference above, as it does not refer to an act of development.

### **Main Issue**

5. The main issue is the effect of the proposed rear extensions on the living conditions of the occupiers of neighbouring properties, with particular regard to daylight, privacy and outlook.

### **Reasons**

6. The appeal property lies within a residential area comprising a mix of mostly houses and bungalows. 17 High Path is a two storey double fronted detached brick and slate house, centrally positioned within the width of its plot. It is part of a long row of similar styled and aged large detached and semi-detached houses elevated above the road behind regular shaped front gardens. To the rear, the deep garden of No 17 is a similar size to its neighbours, and is bounded by high brick walls.
7. The similarity of the houses along High Path, including their rich architectural detailing, their size and spacing, gives an attractive and rhythmical character and appearance to the area. To the rear, many of the semi-detached houses have deep two storey back additions, including Nos 18 and 16, with some properties having been extended beyond them.
8. The proposed rear extensions would be constructed of brick, render and natural slate, with Victorian style sash windows. Although three stories in height, the proposed ridge would be set below that of the existing house, with the side wall stepped in. The third floor window would be much smaller than those below it, thereby having the appearance of an attic room. The single storey extension element with its sloping lean-to roof would be subservient to both the house and the proposed three storey extension. Despite their size, the proposed extensions would not project beyond the depth of the neighbouring houses. The proposal would, therefore, maintain the character and appearance of the house and the surrounding area.
9. However, the occupiers of the properties either side of the appeal property are concerned that the proposed extensions would result in an unacceptable loss of light and be an overbearing outlook. Both Nos 18 and 16 have ground floor side windows that overlook the appeal site. Like the appeal property, each house is set away from the side boundary, which in both cases is delineated by a high boundary wall. I accept there would be some loss of light to these

ground floor windows, particularly in the winter, and that the extensions would be much taller than the existing conservatory. However, the separation of the houses from each other would be maintained by the proposed extensions, and there is already a loss of light and outlook to these windows with regard to the existing boundary wall and the deep two storey rear extension to No 16. The use of white painted render to the sides of the proposed extensions would reflect some light into the neighbouring properties. Furthermore, in addition to the side windows serving the kitchen of No 18, it also benefits from other windows. Taken together, the impact of the proposed extensions on the daylight and outlook of the neighbouring residents would not be a significant and harmful loss over and above the existing situation.

10. I have also had regard to the concerns of neighbouring residents as to loss of privacy. However, there are a number of windows in the appeal building and also within those of the neighbouring houses that give mutual overlooking for occupiers between the properties. The proposed first floor side windows within the extensions would serve a bathroom and landing, whilst those to be inserted within the main house would be for an ensuite and bathroom, and all would be obscure glazed. As such there would not be an unacceptable loss of privacy to the occupiers of the surrounding properties.
11. Local residents are concerned that the future occupiers of the extended house would increase noise and disturbance in the area. Whilst there would be likely to be some increase with potentially more occupants of the appeal house, it would occur within an established residential area and would be experienced within this context. As such it would be unlikely to significantly increase noise and disturbance in the area.
12. I therefore find the proposed extensions would not unacceptably harm the living conditions of neighbouring residents with regard to daylight, privacy and outlook. The proposal would accord with the requirements of Policies H17 of the Taunton Deane Local Plan (2004) and DM1 of the Taunton Deane Core Strategy (2012). These policies seek amongst other things and like an objective of the National Planning Policy Framework (the Framework), a good standard of amenity for all existing and future occupants of land and buildings.

### **Other Matters**

13. Local residents refer to subsidence problems. However, in the absence of substantive evidence that the extensions would cause problems of this sort, I can only afford this matter limited weight.
14. Concerns regarding the Council's handling of the application and relationship with the Town Council are procedural matters and have no bearing on my consideration of the planning merits of the case.
15. The degree of harm would not, therefore, be so serious as to justify dismissing the appeal on these points alone.

### **Conditions**

16. The conditions suggested by the Council have been considered against paragraph 206 of the Framework. Where necessary and in the interests of clarity and precision they have been altered to better reflect these requirements. I have imposed the standard time limit condition and one

requiring the development to be carried out in accordance with the approved plans, so as to avoid doubt and in the interests of proper planning.

17. I have also imposed a condition requiring matching external materials, to ensure that the extensions harmonises with the character and appearance of the host building and that of the surrounding area.
18. To protect the living conditions of the occupiers of nearby houses, I have imposed a condition requiring obscure glazed and restricted opening windows within the side elevations of the extensions, and have removed permitted development rights as regards the insertion of additional openings.

**Conclusion**

19. For all the reasons given above, I therefore conclude that the appeal should be allowed.

*J J Evans*

INSPECTOR



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## Appeal Decision

Site visit made on 26 May 2015

**by Mike Fox BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 June 2015**

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**Appeal Ref: APP/D3315/A/14/2229073**

**Fitzroy Farm, Fitzroy, Norton Fitzwarren, Somerset, TA2 6PH**

- 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.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mr and Mrs Andrew Ritchie against the decision of Taunton Deane Borough Council.
  - The application Ref 25/14/0030/CMB, dated 1 September 2014, was refused by notice dated 31 October 2014.
  - The development proposed is change of use from agricultural buildings to dwelling houses (Use Class C3) and associated building operations.
- 

### Decision

1. The appeal 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 for change of use from agricultural buildings to three dwelling houses (Use Class 3) and associated building operations at Fitzroy Farm, Fitzroy, Norton Fitzwarren, Somerset, TA2 6PH, in accordance with the details submitted pursuant to Schedule 2, Part 3, Paragraph W of the GPDO, subject to the following conditions:
  - 1) The development hereby approved shall begin not later than three years from the date of this decision.
  - 2) The development hereby approved shall be carried out in accordance with the following approved plans, with drawing numbers in brackets: *Location Plan* (10; Rev C); *Existing Site/Block Plan Barns A, B & C* (11; Rev A); *Proposed Site/Block Plan Barns A, B & C* (12 Rev B); *Existing Barns A, B & C* (13; Rev A); *Existing Elevations Barn A* (14; Rev A); *Existing Elevations Barns B & C* (15; Rev A); *Proposed Elevations Barn A* (16); *Proposed Elevations Barns B & C* (17; Rev A); and *Proposed Site Plan* (18).
  - 3) Prior to the dwellings hereby approved first being occupied, the access, driveway and parking areas shall be fully hard surfaced. The areas shall be made of porous material, or alternatively provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellings or within an alternative area acceptable to the local planning authority. The area allocated for parking shall remain unobstructed and available for the parking of

vehicles in association with the development hereby permitted, unless otherwise agreed in writing by the local planning authority.

### **Application for costs**

2. A late application for costs was made by Mr and Mrs Andrew Ritchie against Taunton Deane Borough Council. The Inspectorate's Decision Officer, however, in his letter of 13 April 2015, has written to state that the Appellant has failed to demonstrate that there is a good reason for accepting the late costs application for consideration, and that no further action can be taken on it.

### **Procedural Matters**

3. The application to the Council was made under Schedule 2, Part 3, Class MB of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). However, that statutory instrument has been largely replaced with the Town and Country Planning (General Permitted Development) (England) Order (GPDO) 2015<sup>1</sup>. Equivalent provisions are now included within Schedule 2, Part 3, Class Q of that Order (hereafter referred to as Class Q). The relevant legislation provides for anything done under the previous provisions to be treated as if done under the new provisions, so an application made under Class MB has effect as if made under the new Class Q. I have proceeded on this basis.
4. Class Q 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 house) of the Schedule to the Use Classes Order<sup>2</sup> and building operations reasonably necessary to convert the building.

### **Main Issue**

5. The Council raises no concerns regarding the tests in what is now paragraph Q.1, including whether the appeal buildings have been in sole agricultural use at the material date (20 March 2013); the cumulative number of separate dwelling houses developed under Class Q does not exceed three; the cumulative floorspace changing use does not exceed 450 sq m; and the proposed building operations are reasonably necessary to convert the buildings to dwelling houses. I have no reason to take a different view.
6. In relation to the criteria under paragraph Q.2 (1), the Council has raised no concerns in relation to transport and highways and noise impacts of the development; contamination and flooding risks on the site; and the design or external appearance of the buildings. Again, I have no reason to take a different view.
7. Prior approval was refused solely on the grounds that the location would be impractical or undesirable for it to change from agricultural use to a dwelling (criterion (e) in paragraph Q.2.). This is the main issue for consideration in this appeal.

### **Reasons**

8. The appeal site forms part of a cluster of agricultural buildings and stables, centred on the main farmhouse, Fitzroy Farm, within the open countryside.

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<sup>1</sup> S.I. 2015 No. 596.

<sup>2</sup> SI 1987/764 – The Town and Country Planning (Use Classes) Order 1987, as amended.



- The properties are connected to the A358 Taunton-Minehead main road by a short country lane. The proposal is to convert four agricultural buildings into three dwellings, comprising one 2 bed, one 3 bed and one 5 bed dwelling.
9. The Council's concern is that the proposed development would be contrary to paragraph 55 of *the Framework*<sup>3</sup>, which states that national planning policy is to avoid isolated new homes in the countryside. The Council's view is that the site is in an unsustainable location because there are no public services within the area.
  10. The Council also points out that there are no safe pedestrian routes between the site and the bus stops on the A358, some 800m distant, and that the grass verges which provide access to them are affected by localised flooding in winter. In addition, pedestrians using buses going westwards would have to cross the busy A358 without the benefit of a formal crossing. Future occupiers would therefore be likely to use cars for most journeys.
  11. The recent amendments to the PPG<sup>4</sup> are relevant to this case. Paragraph 108<sup>5</sup> answers the question: *Is there a sustainability prior approval for the change to residential use?* It states that the permitted development right does not apply a test in relation to the sustainability of a location, and explains that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs.
  12. Paragraph 109<sup>6</sup> answers the question: *What is meant by impractical or undesirable for the change to residential use?* It states that when considering whether it is appropriate for the change of use to take place at a particular location, a local planning authority should start from the premise that the permitted development right grants planning permission, subject to the prior approval requirements. It also states that, the fact that an agricultural building is in a location where a local planning authority would not normally grant planning permission for a new dwelling, is not a sufficient reason for refusing prior approval. This provision in my view outweighs the Council's arguments based on the sustainability considerations set out in paragraph 55 of *the Framework*.
  13. The PPG is the most up-to-date guidance on the interpretation of the Class Q provisions and it therefore carries substantial weight. It is also clear from the examples given in the PPG where impact cannot be mitigated, such as an agricultural building at the top of a hill with no road access, power source or other services, that the appeal site does not fall into this category of undesirability. Integral to the PPG's stance, therefore, is whether the proposed conversion from agricultural use to a dwelling would be impractical. Whilst I agree with the Council that there are sustainability considerations that would be brought to bear in the case of a planning application, it cannot be argued that the proposal before me would be impractical in the light of paragraph 109 of the PPG. I therefore consider that the isolated location of the appeal site would not be a justified ground to withhold prior approval.

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<sup>3</sup> DCLG: national Planning Policy framework (*the Framework*); March 2012.

<sup>4</sup> DCLG: national Planning Practice Guidance (PPG); updated 27 March 2014.

<sup>5</sup> PPG Reference ID: 13-108-20150305.

<sup>6</sup> PPG Reference ID: 13-109-20150305.

14. In the light of the above considerations, I conclude in relation to the main issue that there would be no adverse impacts regarding any of the criteria listed in paragraph Q.2 (1) of the GPDO.

### **Other matters**

15. Several letters of objection from local residents express concern over increased vehicular traffic and danger to pedestrians. The highway authority, however, has not expressed concern over these matters and the Council states that the proposal is unlikely to significantly harm highway safety. I see no reason to disagree. I do not consider that the proposal would harm the impact on the character and appearance of the landscape, as the buildings already exist and the proposal would not change their height, footprint or any other feature that would result in visual harm to the character and appearance of the surrounding countryside. Finally, no evidence has been submitted to demonstrate that any wildlife interests would be adversely affected.

### **Conditions**

16. In accordance with the GPDO, development must be carried out within three years of the date of this decision and in compliance with the approved plans, and I have imposed these conditions accordingly.
17. The Council suggested four additional conditions. I have accepted, with modifications, the suggested condition relating to the surfacing of the access, driveway and parking areas and their retention as such, in the interests of highway safety and sustainable drainage.
18. The Council suggested a condition restricting permitted development rights. The PPG advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. As I have no evidence to suggest that exceptional circumstances apply, I have not imposed this suggested condition.
19. The Council suggested two further conditions relating to specific materials for external windows and doors, and guttering, downpipes and rainwater goods. I am not persuaded that this level of detail is necessary to make the application acceptable, and I agree with the Appellants that the imposition of these conditions would place unjustifiable and disproportionate burdens on them. I have therefore not imposed these conditions.

### **Conclusion**

20. For the reasons given above, and having regard to all other matters raised, I conclude that, subject to the appropriate conditions, the appeal should be allowed and prior approval granted.

*Mike Fox*

INSPECTOR