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## Appeal Decision

Site visit made on 5 December 2017

**by J E Tempest BA(Hons) MA PGDip PGCertHE MRTPI IHBC**

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

**Decision date: 23<sup>rd</sup> April 2018**

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**Appeal Ref: APP/V3310/W/17/3180064**

**Bakersfield Barns, Littlemoor Road, Mark, TA9 4NL**

- 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 House against the decision of Sedgemoor District Council.
  - The application Ref 33/16/00035/JE, dated 18 November 2016, was refused by notice dated 19 January 2017.
  - The development proposed is change of use of agricultural building to a dwellinghouse (Use Class C3) and for associated operational development.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) has been amended with effect from 6 April 2018. These amendments, subject to compliance with various criteria, include revisions to the maximum number of dwellinghouses permitted and that building operations must take place together with the change of use. The application which is the subject of this appeal seeks both change of use of an agricultural building to one dwellinghouse and associated operational development. I am satisfied that there is no prejudice to the parties in my proceeding to determine the appeal in the context of the GPDO as amended.

### Background and Main Issues

3. Class Q of Schedule 2, Part 3 of 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 (dwellinghouses) ("Class Q(a) development"). Additionally, Class Q(b) permits the change of use together with building operations which are reasonably necessary to convert the building to a Class C3 use ("Class Q(b) development"). Paragraph Q1 sets out specific circumstances under which development is not permitted and Paragraph Q2 sets out conditions applying variously to Q(a) and Q(b) development.
4. The Council has confirmed that prior approval is required for the development and has refused to grant prior approval. The basis for the Council's refusal is

that the proposed building operations go beyond what could be considered a conversion and therefore cannot benefit from Class Q permitted development rights.

5. The Council's decision includes a reason for refusal related to the location of the appeal site within an area at high risk of flooding. However, the evidence states that the site has now been identified as being outside Flood Zone 3b defined on the Environment Agency's flood map and so is not at high risk of flooding. The Council has confirmed it is now not defending this reason for refusal.
6. The **main issue** in this appeal is therefore whether the proposal would be permitted development under Schedule 2, Part 3 Class Q of the GPDO.

## Reasons

7. In order to determine the appeal, I must consider first whether the proposal satisfies the conditions, limitations and restrictions set out in Class Q and, if so, whether it also satisfies the conditions specified in Part Q.2.
8. There is nothing to suggest that the appeal site is in anything other than agricultural use. Taking into account the planning history of the site which includes previous applications seeking prior approval, I am satisfied that there is no evidence to suggest that the restrictions set out in paragraph Q.1., other than Q.1.(i), would not be met. Q.1.(i) states that development is not permitted if it would consist of building operations other than those specified, to the extent reasonably necessary for the building to function as a dwellinghouse and partial demolition to the extent reasonably necessary to carry out those building operations.
9. The proposed change of use to one dwelling involves three buildings. Following the numbering shown on the existing floor plan drawings, barn 1 is a detached brick building with a clay tiled roof and of modest size. Barns 2 and 3 are adjacent to one another. Barn 2, which I refer to hereafter as the Dutch barn, is predominantly open on its north and east facing sides. The west side is clad in corrugated metal sheeting and the south side has some concrete block wall at a low level and elsewhere a mix of old and newer corrugated metal cladding. The roof is corrugated metal sheeting. Barn 3 is a rectangular brick and stone building with one partially open side, and a clay tiled roof supported by a timber framed roof structure. The Council does not dispute the works proposed in respect of Barns 1 and 3.
10. The Dutch barn is shown as providing the larger part of the floorspace of the dwelling, with a first floor being added for bedroom and bathroom accommodation. The Planning Practice Guidance (PPG) states that the permitted development right under Class Q assumes the building is capable of functioning as a dwelling. The PPG continues that "It is not the intention for the permitted development right to include the construction of new structural elements for the building. Therefore, it is only where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right".<sup>1</sup>

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<sup>1</sup> Paragraph 105 Reference ID 13-105-2-150305

11. The proposals are accompanied by a structural report dated October 2015 which is based on visual inspection of the buildings. Although the report states that the structure of the Dutch barn is capable of safely supporting loads from change of use to residential, the report lacks detailed reference to the precise works proposed, including the insertion of a first floor and the construction of new walls including those on the open north and east sides of the building. The report confirms the existing roof of the Dutch barn is of too light a construction to support additional loads. It states that the angle purlins and curved purlins would need to be strengthened or an internal weather proof /independent structural framing provided.
12. The structural report also includes at Appendix B calculations relating to the columns, concluding these are adequate to support loads from 'proposed residential development', but there is no explicit reference to the submitted scheme or the proposal drawings. Whilst Appendix B refers to calculations and sketches, no sketches are included and the basis for these calculations is unclear.
13. From what I observed during my site visit, the roof cladding of the Dutch barn shows clear signs of corrosion. In a number of places daylight is visible at the junction of the roof and sides of the building. The grounds of appeal refer to the metal cladding on the building being restored, re-primed and patched rather than replaced. However, there is no cladding or wall at ground level on the north and east sides of the building in the position where the proposed walls are shown. The south facing side has a patchwork of cladding of different ages and a partial concrete block wall at a lower level. Only the west elevation has existing cladding which appears in good condition. Whilst the appellants state the corrugated metal sheeting from the north elevation exists elsewhere and could be re-applied, it is not part of the barn at present.
14. The drawings show that in the case of Barns 1 and 3, the existing buildings would be retained and lined internally as shown by dark hatching to denote the new work. Similar hatching is shown on the proposed floor plan drawings for the Dutch barn. Whilst the extent of any demolition is not specified in any detail, there is no indication on these drawings to show retained cladding. New walls are indicated throughout the Dutch barn albeit the steel columns are shown in place.
15. Although the appellants refer to a first floor previously in the Dutch barn, citing as evidence bolt holes and steel uprights, there is no first floor now and the evidence does not demonstrate that structural works would not be required to insert the proposed first floor.
16. Paragraph W(3) of the GPDO makes clear that an application may be refused where the developer has provided insufficient information to enable it to be established whether the proposed development complies with any condition, limitation or restrictions in Part 3. The onus is therefore on the developer to demonstrate compliance with the provisions of Class Q.
17. Taking all of the above together, I find that the works needed for the Dutch barn to function as part of the proposed dwelling are highly likely to involve new structural elements and that the works to satisfy building regulations including new walls, a first floor and a satisfactory roof would be so extensive that they would effectively amount to a new building rather than a conversion.

The evidence is insufficient to show otherwise. Accordingly, the works would not be permitted development under Class Q(b).

*Other matters*

18. Both the Council and appellant refer to a scheme for prior approval of change of use of agricultural buildings to a dwelling relating to the appeal site which was dismissed at appeal in 2014. Although I have reached the same conclusion as the Inspector in 2014 with regard to the proposal not being permitted development, I have considered the matter afresh and determined the appeal which is before me on the basis of the evidence provided including what I saw during my site visit.
19. Whilst I have noted the work undertaken by the appellants to clarify the position of the site in relation to flooding and with regard to ecological matters, these do not alter my conclusions with regard to whether the proposal is permitted development.
20. The appellants' grounds of appeal state that the external appearance of the proposed dwelling including the proposed materials would be satisfactory. However, it is the extent of the building works required which are the determining issue in this appeal. Consequently, the design and appearance of the dwelling are not determining issues, nor is the matter of rural housing need or the site's relationship to Mark.
21. I am referred to an appeal decision<sup>2</sup> relating to a site elsewhere in Mark which the appellants advise involved extensive works to facilitate a conversion. However, there appears to have been no dispute in the appeal cited that the proposal met all the requirements of Paragraph Q1 including the extent of building operations. The appeal related to other matters requiring prior approval. Accordingly, the circumstances differ significantly from those which are before me.
22. The Council's evidence in its report leading to the decision to refuse the application, cites a High Court Judgment which addressed matters relating to Class Q<sup>3</sup>. Although the appellants state that amended applications have been submitted to the Council as a consequence, the details of these proposals are not before me and therefore play no part in my decision.

**Conclusions**

23. For the reasons given above, I conclude the evidence fails to demonstrate that the proposals would be permitted development and therefore the appeal is dismissed.

*J E Tempest*

INSPECTOR

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<sup>2</sup> APP/V/3310/W/16/3160179

<sup>3</sup> 2016 EWHC 2853 (Admin) 09/11/2016