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# Appeal Decision

Site Visit made on 9 March 2021

**by Elaine Benson BA(Hons) DipTP MRTPI**

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

**Decision date: 14 May 2021**

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**Appeal Ref: APP/J1860/W/20/3263591**

**Wood Farm, Burnthorne Lane, Dunley, DY13 0TP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 John Corbo against the decision of Malvern Hills District Council.
  - The application Ref 20/01237/GPDQ, dated 20 August 2020, was refused by notice dated 15 October 2020.
  - The development proposed is Notification for Prior Approval for the proposed change of use of an agricultural building to 3 dwelling houses.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue in this appeal is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q (Class Q) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). In particular, it is necessary to consider the following criteria of Class Q:
  - i) whether the last use of the buildings was solely for an agricultural use as part of an established agricultural unit (Q.1 (a)),
  - ii) whether the required building operations are to the extent reasonably necessary to carry out the conversion of the building (Q.1 (i)),
  - iii) the effect of the resulting barns on the character and appearance of the surrounding rural area(Q2 (1) (f)); and
  - iv) whether there would adequate natural light to all habitable rooms (Q2 (1) (g)).
3. There is no dispute that the other criteria of Class Q are satisfied. There is therefore no need to give them further consideration in this decision.

## Reasons

4. Subject to a number of criteria, 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 use falling within Class 3 (dwellinghouses) of the Schedule to the Town and Country Planning (Use Classes Order) Order 1987 (as amended) and any building operations reasonably necessary for converting

the buildings. The appeal proposal relates to the change of use of 2 barns to 3 dwellings.

#### *Agricultural use*

5. The relatively modern barns stand within the land associated with a smallholding comprising a farmhouse and 21.6 acres of agricultural land and woodland. This is confirmed by the sales particulars relating to the appellant's purchase of the appeal barns in 2019. It is stated that the buildings were used for the storage of hay and agricultural equipment and machinery and were in use as part of an agricultural holding on 20 March 2013. There is nothing to suggest that it was not part of a business operation. There is supporting evidence from the previous owners and the selling agents as well as the current owner that the use has not changed in the intervening period.
6. No agricultural activities have been observed by the Council. Nonetheless, the barns have an overtly agricultural and utilitarian appearance. There is no evidence, including planning permissions, that any other use of the barns has commenced. In the absence of any convincing evidence to the contrary and on the balance of probabilities, it is my judgement that the buildings were last in use for agricultural purposes as part of an agricultural holding. Even if they were not in use on the relevant date, there is nothing to indicate that the agricultural use has been replaced by another. I therefore conclude that criterion Q1(a) is satisfied.

#### *Building operations*

7. The main barn is a single storey, open plan, 4 bay steel portal frame building with a concrete floor. It would be converted to form 2 separate dwellings, with the masonry and external cladding walls retained. The smaller barn is two-storey and comprises concrete block masonry, metal cladding and pitched, corrugated roof. An internal ladder provides access to a first-floor timber deck. There are long-standing cracks in mortar joints and through individual blocks. This barn would be converted to form an open plan ground floor with additional rooms in what is currently a dilapidated single storey lean-to log store at the side. Bedrooms in the roof space would be accessed by a central stair.
8. Planning Practice Guidance (PPG) (in paragraph 105) provides guidance about the works permitted under the provisions of the GPDO stating that the '*right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission*'.
9. Details of the proposed operations include the appellant's Structural Engineer's Report (Structural Report) and a Construction Method Statement. The Structural Report indicates that the buildings as a whole are structurally sound and capable of supporting any additional loads associated with a residential use without any major demolition and subsequent rebuilding. There are no reasons to disagree.
10. Certain works, including the replacement of doors, windows, roofs and exterior walls are permitted. However, the PPG continues 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. Therefore, it is only where the existing building is already*

*suitable for conversion to residential use that the building would be considered to have the permitted development right'.*

11. The Structural Report indicates that no investigations of the existing foundations, such as excavating trial pits, have been undertaken. It states that the foundations appear to be sound and that there is no evidence of subsidence or heave. However, it has not been categorically demonstrated that no underpinning or other structural works to the foundations would be required in order to carry out the proposal which includes additions such as heavy glazing panels.
12. The excavation and installation of foundations are not included in the list of permitted operations set out in the PPG. Without a comprehensive appreciation of the structural basis of the building and details of the extent of any strengthening works that may be necessary, it is not possible to determine the full extent of the building operations. Without convincing evidence to the contrary, it is reasonable to conclude that the necessary works may be substantial, could be considered rebuilding and on this basis would not accord with the provisions of Class Q.1 (i). Overall, I conclude that the barns are not already suitable for conversion to residential use.
13. Both main parties have produced a number of appeal decisions which reach opposite conclusions about similar proposals for prior approval. In itself, the number of examples produced and the differing conclusions reached demonstrate the need to consider each case on its own specific merits. I have had regard to all of the examples provided. Each has individual characteristics and considerations which are not directly related to the appeal before me which I have determined on its own circumstances. In particular, whilst it should be borne in mind that I do not have the full details of the proposals relating to appeal decisions APP/X1118/W/19/3228101, APP/L3245/W/18/3216271 and APP/R1038/W/128/3200789, it appears that more comprehensive structural evidence and calculations, including those relating to the foundations, were submitted.

#### *Character and appearance*

14. The barns are modest contemporary structures of simple, utilitarian design. Their external materials comprise corrugated metal, timber, concrete blocks and fibre cement sheets of varying quality and condition. The proposal shows alterations to the appearance of the buildings that are permitted under Class Q in order to enable the buildings to function as dwellinghouses. The glazing of existing openings and the introduction of new windows would result in a more domestic appearance. However, their understated, unfussy design would be acceptable and would not harm the rural character of the surrounding area. Furthermore, there are limited public views of the barns, and in particular of the elevations that are to contain glazing. On this basis there would be no conflict with the aim of the National Planning Policy Framework to seek high quality design and the criteria of Q2 (1) (f) would be satisfied.

#### *Adequate natural light in habitable rooms*

15. Criteria Q2 (1) (g) relates to the provision of adequate natural light in all habitable rooms. The application drawings considered by the Council do not show all bedrooms as having windows or another natural light source. On this basis there would clearly be inadequate natural light to these habitable rooms.

However, amended plans submitted with this appeal show a reconfigured internal layout with windowed elevations to all of the habitable rooms, thereby achieving adequate natural light. Nonetheless, as this appeal is dismissed for other reasons, there is no need to consider this matter further.

### **Conclusion**

16. I conclude that insufficient evidence has been submitted to demonstrate that the proposal complies with the conditions, limitations and restrictions associated with Class Q of the GDPO. Therefore, the existing buildings are not capable of conversion without extensive building works.
17. For the reasons set out above the proposal would not constitute permitted development and the appeal should be dismissed.

*Elaine Benson*

INSPECTOR