



Appeal Decision

Site visit made on 20 January 2025

by **U P Han BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 20 February 2025

Appeal Ref: APP/A0665/W/24/3350316

Ford Farm, Newton Lane, Newton by Tattenhall, Chester, Cheshire CH3 9NE

- 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 The Booths Charities Trust against the decision of Cheshire West and Chester Council.
- The application Ref is 24/01354/PDQ.
- The development proposed is change of use of agricultural buildings to residential use (5 dwellings).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development given in the Application Form is 'See accompanying Planning Statement.' The description of development provided in the banner heading above has been taken from the appellant's Permitted Development Statement (dated May 2024). I have used this description in my consideration of the appeal.
3. On 21 May 2024, Statutory Instrument 2024 No. 579 came into force amending Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Due to transitional arrangements, I have proceeded to determine the appeal in accordance with the GPDO that applied at the time the application was made. All references to the GPDO in this decision therefore relate to the version that was in force at that time.
4. The proposed scheme is for the change of use and conversion of agricultural buildings into 5 dwellings. Based on the submitted drawings, I have determined the appeal on the basis that the agricultural buildings that the application relates to are the three buildings with a rectangular floor plan shown on the 'Proposed Site Plan – Hard and soft landscaping' and does not include the L shaped building that is also shown on this plan.

Background and Main Issues

5. Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule of the Use Classes Order 1987 (as amended), and the building

operations reasonably necessary to convert the building. This is subject to various limitations and conditions as set out in paragraphs Q.1 and Q.2 of that Class.

6. The main issue in this appeal is:

- whether the proposal would be permitted development under Article 3, Schedule 2, Part 3, Class Q of the GPDO having particular regard to whether the building operations proposed would be reasonably necessary to convert the buildings to dwellinghouses.

Reasons

Whether Permitted Development

7. The appeal site relates to a farmyard with multiple agricultural buildings accessed from Newton Lane. The site lies in open countryside and is surrounded by agricultural fields to the north, east and south.
8. One of the buildings proposed for conversion comprises a steel and timber frame structure with a concrete floor and a Dutch style corrugated metal sheet roof over the central section of the building. The barn has projections to the east and south which are lower in height than the main building. These are partly covered by monopitch corrugated sheet roofs. Based on the submitted drawings, these projections would be demolished. The west elevation of the barn is predominantly open sided. The north elevation consists of corrugated metal sheeting enclosing the barn from the eaves to the blockwork at the base which reaches to a height of approximately 1.5 metres from the ground. The east elevation is similar but has timber panelling next to the ground instead of blockwork. The walls are made up of different coloured pieces of corrugated metal sheets which are weathered, exhibiting rust and warping in many places.
9. The second building proposed for conversion comprises a rectangular shaped shed that is joined to another similarly sized shed on its south side. The building has a timber frame with a concrete floor and blockwork to approximately 1.5 metres from the ground on its east, west and south elevation. It is enclosed on three sides by corrugated metal sheet walls. There are two large openings on the east elevation. The north elevation is completely open. The roof is dual pitched and consists of corrugated metal sheeting with perspex sections to allow for light. Sections of the metal walls are deteriorated, showing signs of rust and distortion, with light penetrating holes and gaps in the walls.
10. The third building proposed for conversion is of steel frame construction with a concrete floor and a corrugated dual pitched metal sheet roof. The south elevation is completely open. A large portion of the east elevation is open with the remainder enclosed by metal cladding. The north elevation has soft timber boards from the ground to about 0.5 metres from the eaves of the building. The west elevation is largely enclosed by corrugated metal sheeting.
11. The evidence submitted by the appellant provides very limited information regarding the existing structural condition of the buildings. There is also no structural information or evidence regarding the capability of the existing primary structures to support the loading of the materials that would be required to convert the buildings. The Permitted Development Statement submitted with the application briefly describes one building and concludes that its underlying

structural condition is good and capable of conversion. Given that there are multiple buildings in the appeal site, it is therefore unclear which building the statement regarding the structural condition relates to.

12. In terms of the building operations proposed, the appellant simply states that all brickwork/ metal cladding would be repaired as necessary and an inner skin of blockwork or insulated plasterboard would be constructed, as well as an insulated solid floor. However, no reference has been made to the existing timber cladding on the buildings and whether it would be repaired or replaced.
13. Based on the drawings submitted, it would appear that new external walls would need to be constructed where none currently exist. However, the proposed building operations do not refer to the erection of new external walls.
14. According to the drawings the construction of Dwelling Unit 1 would necessitate the demolition of the south projection of the barn with the Dutch style roof, leaving two sides of the building open. The corrugated metal sheets on the remaining sides of the barn are weathered with visible rusted and warping. Even if they were to be repaired rather than replaced, a substantial amount of external and internal building work would be required to infill the open sides and construct a two storey dwelling within the existing single storey barn, the primary structure of which I am uncertain is capable of supporting the loading required to convert the building.
15. Dwelling units 2 and 3 would be created from one of the existing sheds within the central area of the site. While the primary structure appears, on the face of it to be robust, the entire length of the building is open on one side while the walls of the remaining sides are damaged in various places and contain large openings. A substantial amount of blockwork would be required to infill the openings.
16. Dwelling units 4 and 5 would be formed from the shed in the north most section of the site. It is unclear whether the soft timber boards on the north elevation of the building would be repaired or replaced as these are not referred to in the appellant's evidence. Even if they were retained as part of the building, they offer little in terms structural integrity to the building. Substantial work would be required to reinforce the wall and create new walls where none exist.
17. I accept that the works set out within Class Q can, in some cases be extensive and can include the installation of exterior walls. Furthermore, the Planning Practice Guidance (PPG) details that internal works to buildings are not generally development and states that for the building to function as a dwelling it may be appropriate to undertake internal structural works. Such works include allowing for a floor, the insertion of internal walls, or a mezzanine or upper floors within the overall residential floor space permitted.
18. However, under Class Q, the building operations must be reasonably necessary to convert the building to a dwelling. The PPG states 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.'

19. It is established in case law¹ that if the works go beyond what amount to a conversion, and represent a rebuild, it will fail to be development permitted under Class Q. What represents a conversion or rebuild is not defined and thus is a matter of planning judgement.
20. Individually, the installation or replacement of the various elements of the buildings may be permissible. However, given the established case law, it is necessary to consider the totality of the works involved and whether it would amount to a conversion or a fresh build.
21. In this instance, no detailed structural information has been provided by the appellant for each of the buildings and the precise nature and extent of the building works proposed are vague, unclear and not detailed. In the absence of credible evidence, the appellant has failed to demonstrate that the existing buildings are capable of or suitable for conversion. However, based on my site observations, the evidence before me, and my findings above, it appears likely that the building operations required would go beyond conversion and amount to rebuilding.
22. I am therefore unable to conclude that the building operations proposed are reasonably necessary for the buildings to function as dwellinghouses, or that the scheme would comply with paragraph Q.1(i) of the GPDO. As such, the proposal does not benefit from the permitted development rights under Schedule 2, Part 3, Class Q of the GPDO.
23. As considerations in relation to prior approval are a follow-on condition stage under paragraph Q.2, they can only apply if the development is otherwise permitted development. Therefore, while the proposal was also refused on the basis that it would not provide a suitable access onto the public highway under Q.2(a), this is not a matter that I need to consider.

Other Matters

24. The appellant has drawn my attention to examples of Dutch barn conversions in Shropshire, Stratford-upon-Avon and Huntingdonshire. However, these were all full planning applications, not prior approval applications. As such, whether building operations were only those reasonably necessary to convert the building to residential use was not part of the assessment of the application.
25. The appellant has referred to provisions under the Statutory Instrument 2024 No. 579 which came into force on 21 May 2024, amending Article 3(1), Schedule 2, Part 3, Class Q of the GPDO. However, the determination of this appeal is based on the GPDO that applied at the time the application was made.
26. The appellant indicates that the proposal should not be refused on the grounds of visual amenity and openness of the land. However, these did not form part of the Council's reason for refusal, and I have not taken these matters into account in my determination of this appeal.
27. The appellant's statement refers to various stated benefits of the proposal. However, such matters fall outside the scope of the prior approval process and my determination of this appeal may rest only on the criteria set out in the GPDO.

¹ Hibbitt v Secretary for Communities & Local Government & Rushcliffe BC [2016] EWHC 2853 (Admin)

Conclusion

28. For the reasons given above, the appeal is dismissed.

U P Han

INSPECTOR