



Appeal Decisions

Site visit made on 19 February 2025

by **Stewart Glassar BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5th March 2025

Appeal A Ref: APP/E2205/W/24/3348195

Canal Farm, Hamstreet Road, Ruckinge, Kent TN26 2NT

- 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 Mr McGuinness (Canal Farm Ltd) against the decision of Ashford Borough Council.
 - The application Ref is NOT/2024/0704.
 - The development proposed is the prior notification for the change of use of one agricultural barn and land within its curtilage from agricultural use to a use falling within Class C3 (as 5 dwelling-houses), together with associated building operations.
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Appeal B Ref: APP/E2205/W/24/3348196

Canal Farm, Hamstreet Road, Ruckinge, Kent, TN26 2NT

- 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 Mr McGuinness (Canal Farm Ltd) against the decision of Ashford Borough Council.
 - The application Ref is NOT/2024/0705.
 - The development proposed is prior approval for change of use of two agricultural barns (Barn 2 and Barn 3) and land within their curtilage, into five dwelling houses falling within Use Class C3 together with associated building operations.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. As set out above, there are two appeals on this site. Both schemes are for prior approval for the conversion of agricultural buildings into five dwellings. Their specific details differ, with Appeal A relating to one building (Barn 2), and Appeal B relating to two buildings (Barns 2 and 3). I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. 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.

5. Class Q(a) 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), and, under Class Q(b), building operations reasonably necessary to convert the building for that purpose. This is subject to a number of instances where such development is not permitted, listed under Paragraph Q.1. The Council raises no concerns in respect of the proposals complying with criteria Q.1 (a) - (h) and (j) - (m). I have no reason to disagree. The Council considers, however, that the developments are not permitted by Class Q, because the proposals contravene the requirements of Paragraph Q.1(i).
6. Where development is permitted by Class Q, Paragraph Q.2 requires developers to apply to the local planning authority as to whether prior approval is required for a range of factors including at Q.2(1)(e) as to whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3. The Council has effectively determined that, if the proposals were permitted by Class Q, prior approval under Q.2(1)(e) would have been necessary, and that it would have been refused.
7. Furthermore, the decision notices go on to state that the proposals have failed to demonstrate that protected species would not be adversely affected or that appropriate mitigation could be secured. Consequently, the schemes are considered to be contrary to the Wildlife and Countryside Act 1981 (the 1981 Act).

Main Issues

8. Therefore, the main issues are whether the proposals would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO and, if they do, what, if any, are the implications for the proposals of (a) the location or siting of the buildings; and (b) the provisions of the 1981 Act.

Reasons

9. The appeal relates to utilitarian agricultural buildings, which were previously used in connection with the poultry farm that existed on the site. Both buildings have a concrete base, concrete block plinth and timber frame, enclosed by horizontal wooden panelling. Each building is boarded internally and has a pitched roof of corrugated sheeting.
10. The submitted drawings show the provision of dwellings within the existing external dimensions of the buildings. For Appeal A, it is five dwellings within Barn 2 and for Appeal B it is 4 dwellings in part of Barn 2 and 1 dwelling in part of Barn 3, with the remaining parts of Barns 2 and 3 being demolished. The drawings also show external changes to the buildings, including metal roofing, vertical timber cladding on the elevations and the insertion of extensive window and door openings. The drawings do not carry any annotations to indicate what structural elements or external materials of the existing building would be retained, or how they would be incorporated within the development. Furthermore, there is no schedule of works to clarify how the conversion would be carried out.
11. However, Class Q(b) permits building operations that are reasonably necessary to convert the building to residential use. Paragraph Q.1(i) indicates that such operations can include the installation or replacement of windows, doors, roofs, or exterior walls, 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 the permitted building operations.

12. The Planning Practice Guidance (PPG) at Paragraph: 105 Reference ID: 13-105-20180615 provides advice on the interpretation of Class Q1. It clarifies that the permitted development right conveyed by Class Q assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations that are reasonably necessary to convert the building, but 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.
13. Neither the GPDO nor the PPG define the term 'reasonably necessary'. Consequently, this is a matter of planning judgement based on fact and degree of an individual case. The Council has drawn my attention to the Hibbitt Judgement. Hibbitt related to the conversion of an agricultural building that was open to all four sides. The Judgement considered whether the works required to bring about the change of use amounted to a re-build or 'fresh' build as opposed to a conversion. Although the appellant does not consider the Hibbitt case to be directly comparable to the schemes before me, the principles established within the Judgement are relevant.
14. Both appeal submissions are accompanied by the same Structural Assessment (SA), compiled by a suitably qualified expert. The SA states that the corrugated steel sheeting to the roofs is acceptable but would benefit from over-cladding or replacement. I saw on my site visit that on both buildings there were some signs of repair to the roofs and that on Barn 3 in particular, the ridge appears to sag in places. The appeal statements indicate that the roofs would be replaced, and the drawings indicate the replacements to be metal upstand roofs.
15. Whilst the SA notes that the timber beams of the buildings are generally in good order, further investigation is required at the base of the columns and that some local upgrading would be required. It also noted that some upgrading would be beneficial to carry the potential load increase. No detailed structural calculations or drawings have been prepared and so the scale and nature of any upgrading is unspecified.
16. Similarly, whilst the SA considers the studwork and shiplap timber cladding to be in acceptable order, it indicates that some upgrading would be required to accommodate the new insulation and ply cladding for rigidity purposes. Whilst this may be feasible, there are no constructional details to demonstrate how much upgrading would be necessary nor is there any indication on the submitted drawings the extent to which this is what is proposed. In fact, the drawings indicate that most, if not all, of the existing horizontal cladding would be removed and replaced by vertical cladding.
17. The SA advises that the concrete blocks at the base of the walls are in good order but will require the installation of a damp proof course and upgrading for installation purposes. It is not clear in this context whether upgrading means replacing or something else, and if it is the former how many blocks would need replacing. I noted on my site visit that in places some of the blocks were poorly

aligned or were damaged. Although the appeal statements indicate that the exterior blockwork would be retained, the drawings do not specify that the lower parts of the walls would be the existing concrete blocks. Consequently, there is nothing on the drawings to ensure that this would actually be the case.

18. I also note that the SA relies upon only visual surveys of a lack of apparent signs of movement to ascertain the suitability of the existing foundations. The SA acknowledges that no trial holes were dug. On this basis, the degree to which works to the existing foundations would be necessary for the buildings to function as dwellings remains uncertain when taking account of the evidence before me.
19. Not only is there a lack of clarity on the condition of the foundations but the SA is silent on the partial demolition of Barns 2 and 3 within the Appeal B scheme. I am therefore unable to conclude with certainty whether following the partial demolition, the remaining structure of the buildings and their foundations would be capable of safely supporting the proposed development when limited to works that would constitute conversion of the buildings within the limitations and restrictions of Class Q of the GPDO.
20. In reaching the above view, I have taken into account that, although Paragraph Q.1(i)(ii) permits partial demolition, this relates to what is reasonably necessary to carry out building operations set out in Q.1(i)(i). These operations comprise the installation or replacement of the following, to the extent that would be reasonably necessary for the building to function as a dwellinghouse (aa) windows, doors, roofs or exterior walls; or (bb) water, drainage, electricity, gas or other services. Other development would not be permitted. In those respects, the demolition of a substantial section of each building in Appeal B would appear to potentially facilitate building operations that are not expressly permitted by Q.1(i)(i) and, therefore, would go beyond what is reasonably necessary for the buildings to function as a dwellinghouse in that context.
21. So, whilst I have no reason to question the content of the SA, it appears to be based on a visual inspection. Thus, any parts of the structure which were otherwise covered, unexposed or inaccessible have not been inspected to ascertain that such parts of the buildings were free from defects. Furthermore, the drawings and submissions as a whole lack the necessary clarity and detail to persuade me that the developments would proceed as conversions.
22. On the basis of the submitted details, I therefore have significant reservations regarding the feasibility of retaining the walls of the buildings as part of the conversion. In the absence of any requirement on the approved drawings to retain any of these elements, it is likely that economy and practicality would dictate that the buildings would be stripped back and new walls constructed. Thus, given that the roofs would also be replaced, the starting point for conversion would be a similarly skeletal structure to that in the Hibbitt case.
23. Class Q(b) does allow for substantial works, but they must be reasonably necessary to convert the building (my emphasis). In this case, the submitted drawings allow for a scheme that would, in all likelihood, include the construction of all exterior walls and the roofs. This would go well beyond what could reasonably be described as conversion, and would, instead, constitute rebuilding.
24. In making my assessment of the proposal I am conscious of Paragraph W of Schedule 2, Part 3 of the GPDO which states that ‘the local planning authority may

refuse an application where, in the opinion of the authority (a) the proposed development does not comply with, or (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question’.

25. It follows that, based on the evidence before me, I cannot find that the appeal schemes are development permitted under Schedule 2, Part 3, Class Q of the GPDO. As I have concluded that the proposals would not be permitted development, there is no need for me to consider what might be the implications of either the buildings’ location/siting or the provisions of the 1981 Act.

Other Matters

26. I have considered the submitted examples of other decisions, which are on different sites and so have a different locational context to the appeal site. In each of the cases, development was permitted, based on the evidence available, including where appropriate the respective condition of the buildings, and that the proposed building operations, including in some cases partial demolition, were reasonably necessary to convert the buildings to a residential use. Given that an assessment of whether or not proposed works go beyond the scope of conversion is typically a matter of planning judgement with reference to the particular circumstances of the case, these examples are of little weight in the context of determining the current appeals. I have therefore determined them on their own merits.
27. The appellant refers to the Government’s legislative changes and focus on the need to provide homes. However, Class Q does not apply a test in relation to the need for the proposed dwellings or their contribution to housing land supply. As such, this has little bearing on the determination of the appeals.

Conclusion

28. For the reasons given above, I conclude that both appeals should be dismissed.

Stewart Glassar

INSPECTOR