



Appeal Decision

Site visit made on 21 May 2025

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6th June 2025

Appeal Ref: APP/D1265/W/24/3353587

The Barn, Kendall Lane, Milton on Stour SP8 5PZ

- 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 and Mrs Richard and Victoria Kemmis Betty against the decision of Dorset Council.
 - The application Ref is P/PAAC/2024/03352.
 - The development proposed is the change of use and conversion of agricultural building to dwelling (use class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form did not contain a description of the proposed development, I have therefore used the description on the Council's decision notice.
3. On 21 May 2024, the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024/579 came into force, and Article 3(1), Schedule 2, Part 3, Class Q of the General Permitted Development Order (GPDO) was amended. Transitional arrangements set out under Article 10 of the amending Order mean that a prior approval application made before 21 May 2025 in respect of the former Class Q should be decided based on what was previously permitted. As such, I have therefore determined the appeal having regard to the provisions of the former version of the GPDO.
4. The appellant has requested that an amended location plan¹, which shows a revised site boundary be considered as part of this appeal. The Procedural Guide: Planning Appeals – England advises that if an appeal is made, the appeal process should not be used to evolve a scheme, and it is important that what is considered by the Inspector is essentially what was considered by the Council and interested parties at the application stage. It is the appellant's case regarding the acceptability of the proposed use in relation to the second refusal reason that the entire barn would change to residential use. Given that the amendment would be at odds with that position, it would fundamentally change the proposal and the case being put by the appellant. Accepting the proposed alteration would therefore cause significant procedural unfairness, and an injustice would occur were I to take the amended plan into account. Therefore, this appeal has been determined

¹ Drawing No. 23101 P 101 A Location Plan

based on the plans submitted in support of the application and upon which the Council's decision was made.

Background and Main Issue

5. Class Q(a) of Part 3 of Schedule 2 of the GPDO permits the 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 to the Use Classes Order. Class Q(b) of the GPDO permits building operations reasonably necessary to convert the building referred to in (a) to a use falling within Class C3 (dwellinghouses) of that Schedule. Where the proposed works are found to be permitted under the above provisions, it is subject to the condition under Paragraph Q.2(1) that before beginning the development, an application must be made to the Local Planning Authority for determination as to whether prior approval is required for various matters.
6. The main issue is whether the proposed development would be permitted development under Article 3, Schedule 2, Part 3, Class Q of the GPDO and if so, whether the location or siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses).

Reasons

7. The GPDO at paragraph Q.1 (i) states that development is not permitted by Class Q if it would consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.
8. Further to the building operations set out in paragraph Q1 (i) Planning Practice Guidance (PPG)² advises that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. It sets out 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.
9. What may constitute 'reasonably necessary' is not defined in either the GPDO or PPG. However, it is established caselaw³ that the building must be capable of conversion to residential use without operations amounting to complete or substantial re-building of the pre-existing structure or, in effect, the creation of a new building. Whether the extent of work required would comprise conversion or rebuild is therefore a matter of planning judgement.
10. The appeal building is a substantial steel framed agricultural building, with a pitched roof. The walls comprise blockwork and timber hit and miss cladding, and the roof is profiled metal sheeting. The external walls of the building which would form 2 of the walls of the proposed dwelling are largely enclosed, with the

² Paragraph: 105 Reference ID: 13-105-20180615

³ *Hibbitt and another v Secretary of State for Communities and Local Government* (1) and *Rushcliffe Borough Council* (2) [2016] EWHC 2853 (Admin)

exception of 2 bays to the south east elevation. The appeal proposal seeks to convert the building to a 4 bedroom dwelling set over 2 floors.

11. The submitted Structural Report indicates that the existing barn is suitable for conversion without the need for major structural intervention. The proposal would utilise the existing steel frame, concrete floor slab, foundations and metal sheet roof of the building. Externally, there would be alterations to the building including the insertion of windows and doors. The existing 2 open bays to the south east elevation would also be infilled with fenestration and a section of new wall comprising timber boarding and blockwork to match the remaining parts of the wall to this elevation. The existing hit and miss timber boarding to the north east gable of the building would also be retained and made weatherproof with the installation of a breathable membrane and timber battens between the new internal insulation and external timber boarding.
12. In addition, the proposal includes the construction of new walls to the proposed dwelling, which the Council contend would constitute external walls. However, these walls would be entirely beneath the existing roof structure and contained within the exterior envelope of the existing building. Accordingly, as these walls would be within the existing building, they cannot be said to comprise external walls of the building proposed to be converted. The PPG indicates that internal works are not generally development and envisages that works such as the creation of internal walls may be required. Thus, these building operations in this case are not prohibited by Class Q. Further internal works include insulation of the remaining walls and roof of the building, internal partitions and an upper floor, consistent with the conversion of the building to a dwellinghouse.
13. Therefore, while the proposal would require alterations to the outer fabric of the building, these would be relatively modest, with a significant amount of the existing external building fabric to be retained. As such, the existing structure of the agricultural building would contribute substantially to the proposed development. Moreover, the building operations would be reasonably necessary to make the building weatherproof and suitable for human habitation and therefore within the scope of Class Q paragraph Q.1(i) of the GPDO. Consequently, the external works to the outer fabric of the building would neither represent a fresh new build nor rebuilding of the structure.
14. I note the appellant's assertion that the proposed dwelling was designed to convert only part of the existing building to ensure that it would constitute permitted development under Class Q. Nevertheless, while the submitted plans do not specifically denote the use of all the remaining parts of the agricultural building beyond the confines of the footprint of the proposed dwelling, the building in its entirety falls within the application site boundary. Moreover, the appellant's submissions confirm that the application seeks to change the use of the building and land within the red line area on the submitted plans to a use falling within Class C3 (dwellinghouses) and would not include a composite use. Thus, it would appear that the cumulative floor space of the existing building changing use to a larger dwellinghouse under Class Q would exceed 465 square metres. On that basis, notwithstanding my findings in relation to the extent of the building works proposed, the proposal would not benefit from the permitted development provisions under paragraph Q.1 (b) (ii) (bb) of Class Q of the GPDO and would not constitute permitted development.

15. With regard to the Council's second reason for refusal, as I have concluded that the proposed development would not be permitted development it is not necessary for me to consider whether the location or siting of the building would make it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses), as it would not alter the outcome of the appeal.

Conclusion

16. For the reasons given above the appeal should be dismissed.

E Worley

INSPECTOR