



Appeal Decision

Site visit made on 21 October 2025

by H Whitfield BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th October 2025

Appeal Ref: APP/U2235/W/25/3367625

Merrymaids Farm, Couchman Green Lane, Staplehurst, Kent TN12 0RR

- 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 Leybourne Investments Ltd against the decision of Maidstone Borough Council.
 - The application Ref is 24/504214/PNQCLA.
 - The development proposed is described as a “prior notification for the change of use of a building and any land within its curtilage from agricultural to 3no. dwellinghouses and associated operation development. For its prior approval to: - Transport and Highways impacts of the development. - Noise impacts of the development. - Contamination risks on the site.- Flooding risks on the site. - Whether the location or siting of the building makes it otherwise impractical or undesirable for the use of the building to change from agricultural use to C3 (dwellinghouses). - Design and external appearance impacts on the building. - Provision of adequate natural light in all habitable rooms of the dwellinghouses.”
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of the building and any land within its curtilage from agricultural to 3no. dwellinghouses and associated operational development at Merrymaids Farm, Couchman Green Lane, Staplehurst, Kent TN12 0RR in accordance with the application 24/504214/PNQCLA, and the details submitted with it, including plan nos DHA/32727/01, DHA/32727/11, DHA/32727/12, DHA/32727/13 and DHA/32727/14 Rev. A and subject to the conditions in the attached schedule.

Preliminary Matters

2. No description of the development was given on the application form, so I have used the description from the appeal form in the banner heading above as this is the same as the Council's decision notice. However, I have amended the description in my formal decision to omit superfluous wording that does not relate to an act of development.
3. The appellant has submitted an amended plan with this appeal¹ showing a change to the cladding pattern annotated on the elevations. The appellant's statement explains that the existing timber is proposed to be retained along the rear elevation and partially retained on the side elevations. This amendment does not make a substantial difference or fundamental change to the development when compared to the plans upon which the Council made its decision. The Council has also had the opportunity to review and comment on this evidence such that it would not cause unlawful

¹ Proposed Elevations Ref. DHA/32727/14 Rev. A

procedural unfairness to anyone involved in the appeal. I have therefore determined the appeal on the basis of this amended plan.

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) (the GPDO). The transitional arrangements set out in Article 10 of the Order at the time clarified that the amendments do not have to apply in relation to previously permitted development under Class Q of the GPDO in respect of which an application for prior approval is made before 21 May 2025, as was the case in the application subject to this appeal.
5. As neither main party has explicitly confirmed which version of the GPDO the application was submitted and assessed against, and in the absence of any evidence to indicate otherwise, all references to the GPDO in this decision relate to the version currently in force.

Background and Main Issue

6. Under Article 3(1) and Schedule 2, Part 3, Class Q, of the GPDO, development is permitted for the 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) together with building operations reasonably necessary to convert that building for such a use, subject to limitations and conditions.
7. The local planning authority (LPA) may refuse the application where it considers that the proposed development does not comply with, or that the developer has provided insufficient information to enable the LPA to establish whether the proposed development complies with the conditions, limitations or restrictions set out in paragraphs Q.1 and Q.2.
8. The Council contends that the level of building operations proposed to the building goes beyond what could be considered a conversion and the development would be tantamount to a new building.
9. The main issue is therefore whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO, having regard to whether the development would comprise building operations reasonably necessary to convert the building to a dwellinghouse.

Reasons

10. Criteria Q.1(j) requires that any building operations including the installation or replacement of windows, doors, roofs, or exterior walls, amongst other things, should be to the extent reasonably necessary for the building to function as a dwellinghouse. However as set out within the Planning Practice Guidance (PPG), Class Q should be read with the assumption that the agricultural building is capable of functioning as a dwelling. It is not the intention of the permitted development right to allow rebuilding works which would go beyond what is reasonably necessary for the conversion of the building to residential use.
11. There is no definition to the term 'reasonably necessary' within either the GPDO or PPG, and this is a matter of planning judgement based on the fact and degree of each case. The appellant has referred to the Hibbitt² judgement which considered whether works

² *Hibbitt and another v SSCLG (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 Admin

required to bring about a change of use amounted to a re-build or 'fresh' build as opposed to conversion. The case reinforces that it is a matter of planning judgement, however, the building should be capable of conversion without new structural elements, and the existing building should be capable of bearing loading from external works.

12. The appeal building is a rectangular, single storey, steel portal framed building with a corrugated sheet roof. Three sides of the building are enclosed by low masonry walls with overlapping timber slats above and the gable ends contain open entrance sections.
13. The proposal would involve the installation of a new wall along the northern long elevation that is currently open, infilling to the gable ends where the current openings exist, replacement of the roof cladding, raising of the internal floor level, insertion of windows and doors and the installation of an internal insulated skin and internal walls. Based on the evidence before me, the existing steel portal frame, timber cladding and low blockwork walls would be retained.
14. The appellant has submitted a structural report³ which indicates that the building is of sound construction, with no evidence of instability or significant damage. Based on my own observations, I find no compelling reason to depart from the conclusions of that report. The report concludes that the existing steel structure possesses enough structural integrity and robustness to be retained to convert the building to habitable spaces. The Council does not dispute the findings of this report and accepts that the building is structurally sound and capable of conversion without major reconstruction. Instead, the Council's case is focused primarily on the extent of works proposed which includes the construction of new walls to enclose the open sides, replacement of the cladding on the existing walls, the installation of the new floor and the replacement of the roof.
15. The scheme proposes the installation of a new internal floor level. The advice in the PPG envisages that a new internal floor can be a necessary part of a conversion scheme and I do not consider that any of the internal works proposed goes beyond what is reasonably necessary to allow the building to function as dwellings. Similarly, while the roof covering would be replaced, this is permissible within the scope of Class Q. The structural elements of the existing roof structure would be retained and, therefore, the replacement of the roof covering would not amount to a new structural element or go beyond what would be reasonably necessary for the conversion of the building.
16. Additional external cladding would be added to the existing elevations; however, this would not be a structural element or amount to rebuilding. The most substantial element of construction would appear to be the creation of a new wall to enclose the open side of the barn and infill the openings on the gable ends. However, given the building is substantially enclosed, the evidence indicates it is structurally sound and noting that the construction of walls is expressly permitted under Class Q, I find this element of the development to be minor in the overall context of the building's completeness and robustness. In addition, there is no evidence to suggest that the new walls would be required to structurally support the building and therefore enclosing the northern side and openings on the gable ends would not amount to rebuilding, as set out in the Hibbitt case. Accordingly, these works would be reasonably necessary for the building to function as dwellinghouses.
17. For the above reasons, I therefore conclude that the extent of building operations proposed would fall within the scope of being reasonably necessary to convert the

³ By R A Engineering Solutions, dated April 2024

building to dwellinghouses in accordance with the provisions of Schedule 2, Part 3, paragraph Q.1(j) of the GPDO. Accordingly, the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO in this regard.

Other Matters

18. Interested parties have raised concerns in relation to the suitability of the highway and access to accommodate additional traffic from the development. However, there is no substantive evidence before me that the local highway network is incapable of accommodating additional traffic and I note the Council has raised no objection in relation to the transport and highways impacts of the development. Based on the evidence before me, I see no reason to come to a different conclusion. Given the scale of the development and relationship to neighbouring occupiers, there would be no adverse effect on the living conditions of nearby occupiers through noise disturbance or light pollution either.
19. Concerns relating to flood risk are noted, particularly given the sites location in Flood Zone 3 (FZ3), which is land with a high probability of flooding. However, the Council are satisfied that the flood resilience and resistance measures within the supporting Flood Risk Assessment (FRA) are appropriate and that the development would be acceptable in relation to the flooding risks on the site. Moreover, the Environment Agency (EA) have raised no objection to the development subject to a condition requiring compliance with the FRA. I have no substantive evidence before me that would lead me to an alternative conclusion on this matter.
20. Several other issues have been raised by interested parties, including the effect on the agricultural holding, the principle of such development in the countryside, accessibility to public transport options, the commercial incentives of the appellant and concerns that the development would not deliver environmental improvements. However, as the appeal relates to prior approval, the matters for consideration are restricted to those set out in the relevant paragraphs of the GPDO. Therefore, these other issues raised fall outside the matters I can consider.

Conditions

21. Paragraph W(13)⁴ sets out that prior approval may be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The Council has suggested several conditions which I have considered in light of the advice in the National Planning Policy Framework, PPG and parameters of the GPDO. Where appropriate, I have adjusted the wording of the conditions to improve precision and enforceability.
22. Any prior approval granted for the development under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO is subject to the condition under Q.2(4) which specifies that the development must be completed within a period of 3 years starting with the prior approval date. Paragraph W(12) also requires development to be carried out in accordance with the details approved. As such and as I have listed the plans in my formal decision, the Council's suggested time and plans conditions are unnecessary and have not been imposed.
23. As the building has been in use for animals and is known to be partly constructed from asbestos sheeting, it is necessary to include a condition to ensure that contamination

⁴ of Schedule 2, Part 3 of the GPDO

within the site is fully investigated and managed appropriately; to ensure that the development can be carried out safely and the health and safety of future occupants is not put at risk.

24. Similarly, while not included in the Council's suggested conditions list, as the building is within FZ3 a condition requiring compliance with the FRA is necessary, as recommended by the EA, due to the flooding risks at the site. So too is a condition requiring submission of a drainage strategy to ensure surface water flooding risks are not increased by the development. However, I have amended the Council's suggested condition in the interest of clarity and precision.
25. The Council has suggested conditions relating to complying with the higher level of water efficiency standards and accessible and adaptable dwellings standards set under the Building Regulations and requiring the submission of an external lighting scheme to prevent undue light pollution and to protect wildlife. However, as these conditions do not relate to any of the subject matters for which prior approval is required under Class Q, which is a specific requirement of the legislation, I have not imposed these conditions.

Conclusion

26. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

H Whitfield

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Any contamination that is found during the course of any demolition works or the construction of the development hereby permitted shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 2) The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment prepared by DHA, reference CS/33313 dated September 2024 and the finished floor levels shall be set no lower than 18.05mAOD for all units.
- 3) Prior to first occupation of the dwellings hereby approved foul sewage and surface water disposal measures along with measures to ensure the provision of potable water shall be carried out in accordance with details that have first been submitted to and approved in writing by the local planning authority. All measures shall be managed and maintained thereafter in accordance with the submitted details.

END OF SCHEDULE