



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: 30th October 2025

Appeal Ref: APP/E2205/W/25/3370145

The Barns, Daniel Farm, Smarden Bell Road, Pluckley, Ashford TN27 0SY

- 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 D Pearce against the decision of Ashford Borough Council.
 - The application Ref is NOT/2025/0635.
 - The development proposed is described as "This application seeks to provide five new dwellings within the two agricultural barns. Three of these dwellings are 'smaller dwellings' and two of these dwellings are 'larger dwellings'. The barns subject of this proposed Change of Use are outlined within the Location Plan attached to this planning submission."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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.
3. The appellant has confirmed on the application form that the submission was made under the version of the permitted development right as it stood prior to 21 May 2024. Accordingly, all references to the GPDO in this decision relate to that earlier version.

Background and Main Issues

4. 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 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.
5. 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. These include restrictions relating to the building's current or former agricultural use, and the nature and extent of building operations proposed. The eligibility of a site therefore depends on both its current and/or historical use, and

whether the proposed works fall within the scope of what is considered reasonably necessary for conversion. The Council contest both of these issues.

6. The Council also raises concerns about the effect of the proposed development on protected species.
7. Having regard to these matters and the submitted evidence, the main issues are therefore:
 - whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GDPO, having regard to (i) the agricultural use of the buildings; and (ii) whether the development would comprise building operations reasonably necessary to convert the buildings to dwellinghouses; and
 - if it does, whether prior approval is required and should be granted having regard to whether the location or siting of the buildings makes it otherwise impractical or undesirable for the buildings to change from agricultural use to dwellinghouses in respect of the effect of the proposed development on protected species.

Reasons

Agricultural use

8. The appeal relates to two large steel portal framed buildings and the land surrounding them, which are located down a relatively long access track off Smarden Bell Road.
9. Paragraph Q.1(a) states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit – (i) on 20 March 2013, or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or (iii) in the case of a site which was brought into use after 20 March 2013, for a period of at least 10 years before the date development under Class Q begins.
10. Paragraph X defines an agricultural building as one used for agriculture for the purposes of a trade or business. An ‘established agricultural unit’ is defined in Paragraph X as ‘agricultural land occupied as a unit for the purposes of agriculture’. Whether or not this is the case is a matter of fact and degree based on the merits of the case and the evidence presented.
11. The planning history provided by both parties identifies that the appeal buildings have been the subject of a complex planning history, but that they were originally built for agricultural purposes following planning permission¹ in 1992 for the erection of poultry sheds. The appellant also states that the wider land within the holding has been in use for haylage production since before 1992 and that legal agreements were entered into for a bungalow with an agricultural tie associated with the poultry farms around 2000 and 2009², demonstrating the buildings were in agricultural poultry farming use for the purposes of a trade or business.
12. However, the evidence supplied by both parties also details various non-agricultural uses within the barns. For example, the appellant states that in 2005, Barn B was in use for agricultural purposes for poultry farming and Barn A was partly in use for the storage of white-goods and contractors’ equipment.

¹ Council Ref. 92/01359/AS

² Council Refs. 98/01260/AS & 09/00863/AS

13. Around 2016, an LDC application³ was submitted and subsequently refused, which sought to confirm the “lawful use of former agricultural buildings for B8 storage use”. The Council states that the existing use given on the application form for this LDC was B8 storage use. An extract of the officer report for the 2016 LDC has been provided which summarises a statutory declaration made by the site owner at the time dated 13th January 2016. This states that a white-good storage and distribution business was ran solely from the site from 2005 until 2010/2011 and from 2010/2011 the buildings were then used for the storage of plant, machinery and materials in connection with a demolition business. From 2010/2011 until the date the declaration was made, one of the buildings was then used to store household items and from 2013 a local road contractor stored road surfacing equipment within the buildings. The appellant does not dispute any of the information provided within the Council’s summary of the statutory declaration but contends that such uses were infrequent and did not amount to a material change of use from agriculture.
14. Notwithstanding the proportion of the floor area of the buildings that may have been in use for the alleged purposes at the time of the Council’s site inspection, the relevant test in the 2016 LDC was not whether the buildings had ever been in B8 use or if a material change of use had ever occurred. Instead, the test was whether the submitted evidence was sufficiently precise and unambiguous to demonstrate, on the balance of probabilities, that the buildings had been used for B8 storage for a continuous period in excess of 10 years in order to benefit from immunity from enforcement action, which the Council found was not the case. Nevertheless, this 2016 LDC provides evidence of non-agricultural uses having taken place on the appeal site prior to and after 20th March 2013.
15. More recently, the Council’s evidence details that during a site visit for an application around 2023⁴, the site was noted to be in use for car repairs and storage and the supporting application form stated that the barns had not been in agricultural use since 2011. The appellant also states in the covering letter to this Class Q application that elements of both barns have been used for temporary storage for motor vehicles and furniture during 2024. The Phase I Geo Environmental Desk Study and Preliminary Risk Assessment submitted to support this application, dated September 2024, also describes non-agricultural uses within both buildings at the time of inspection.
16. Irrespective of whether any B8 or storage uses at the site have been informal, temporary or have occurred alongside an agricultural use, the appellant accepts that non-agricultural uses have taken place within the appeal buildings. The evidence before me indicates that these various uses have taken place over several years and this does not lead me to the conclusion that these uses have been de-minimis or incidental in nature to the agricultural use of the unit. In contrast, despite the assertion that the site has been in use for the production of haylage since 1992, there is no substantiated evidence before me regarding the extent or duration of any agricultural trading activities from the buildings or on the site. Ultimately, the extent of agricultural uses at the site on or before 20th March 2013 is not clear from the evidence. Nevertheless, and irrespective of whether there was hay within the buildings at the time of my site visit, it is evident that non-agricultural uses have taken place on the site.
17. Therefore, taking all the above into account and based on the evidence before me, I conclude that it has not been demonstrated, on the balance of probabilities, that the

³ Council Ref. 16/00265/AS

⁴ Council Ref. PA/2023/0360

appeal site has been used solely for an agricultural use as part of an established agricultural unit on or before 20th March 2013, as required by paragraph Q.1(a) of Class Q. Consequently, the change of use of the appeal buildings and any land within their curtilage to a use falling within Class C3 would not constitute permitted development under Schedule 2, Part 3, Class Q of the GDPO.

Building operations

18. Paragraph Q(b) permits building operations reasonably necessary to convert the buildings to dwellinghouses which are described in paragraph Q.1(i) as 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 dwelling house and partial demolition to the extent reasonably necessary to carry out such building operations.
19. The Planning Practice Guidance (PPG) sets out that 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. 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. There is no definition of the term 'reasonably necessary' within either the GPDO or PPG, it is therefore a matter of planning judgement based on the fact and degree of each case. However, any building works must be of a scale which would fall within the scope of a conversion, rather than go beyond that so as to amount to a rebuild or fresh build.
20. The appeal buildings are rectangular steel portal framed buildings with corrugated sheet walls, roofs and concrete slab floors. The appellant has submitted structural reports which indicate that the buildings are in very good structural condition with no evidence of instability. The reports conclude the existing buildings to be structurally capable of conversion to habitable spaces whilst retaining the existing steel frames and concrete slabs in their entirety. Based on my own observations, I find no compelling reason to depart from the conclusions of that report.
21. The proposal would involve the installation of non-structural lightweight metal stud walls to create a thermally insulated skin within the building, infilling of the cladding where current openings exist, insertion of windows and doors and the installation of internal stud walls. Based on the evidence before me, the existing buildings would largely remain with the structural steel frame, columns, roof and wall cladding, concrete slab and foundations being retained for each building. The appellant also confirms that there is no requirement for the wall cladding to be removed to install the internal metal stud walls and insulation, which would be supported by the existing concrete slab.
22. Internal works are generally required for most conversion schemes, with such works not resulting in new buildings being created or existing ones being rebuilt. Many agricultural buildings comprise large internal spaces and their sub-division into multiple dwelling houses is permissible under the parameters of Class Q. To facilitate their conversion and subdivision it is reasonably necessary to construct elements such as new internal walls and floors, to insulate these buildings and to create separate units and rooms to enable them to function as individual dwellings.
23. I appreciate the Council's concerns and agree that the extent of works proposed in Class Q applications requires rigorous scrutiny. However, in this case and based on

the evidence before me, the internal thermal skin and studwork proposed in both buildings would not comprise a new external wall system. It would not be constructed from masonry and its weathertightness would be contingent on the retention of the existing external wall and roof cladding. There would be no wholesale reconstruction of the building envelopes. Rather, the works would be within the confines of the existing buildings and would not, based on the evidence before me, be necessary to make the existing buildings structurally sound or to support their existing walls or roofs and would not amount to the construction of new structural elements. Cumulatively, I find the works would be reasonably necessary and would not amount to a rebuild.

24. I have had regard to the PPG and the Hibbitt⁵ Judgement in which it is clear 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. In the case of Hibbitt, the building to be converted was a skeletal steel framed building, which with the exception of 6 steel uprights supporting a mono-pitched roof, was largely open on 3 sides. The Council also refers to a case at Poachers Cottage⁶, which based on the evidence before me, proposed the complete replacement of the existing walls and roofing and the retention of only 4 pre-cast concrete supports and the compacted base.
25. However, the appeal buildings in this case are entirely enclosed. The walls, roof and structural framework of the appeal buildings are far more substantial than what is suggested was present in the Hibbitt case and the existing structural frame, walls and roof are proposed to be retained in contrast to the Poachers Cottage Case. Therefore, the circumstances between the appeal scheme and these two cases are not directly comparable, and I have dealt with the appeal on its own merits.
26. For the above reasons, I conclude that the development would comprise building operations reasonably necessary to convert the buildings to dwellinghouses and would therefore constitute permitted development under Schedule 2, Part 3, Class Q of the GDPO in this regard.

Other Matters

27. Given my conclusion that the proposed development would not be development permitted under Class Q of the GPDO, it is not necessary for me to consider the Council's concerns in relation to the potential effects on protected species, or any other matters raised by interested parties, as they would not alter the outcome of the appeal.
28. The appellant has referred to the Council's housing land supply position, however, this is not determinative in relation to applications made under Class Q of the GPDO.

Conclusion

29. For the reasons given above, and based upon the evidence before me, I conclude that it has not been demonstrated that the appeal proposal is permitted development under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO. Accordingly, the appeal should be dismissed.

H Whitfield INSPECTOR

⁵ Hibbitt and another v Secretary of State for Communities and Local Government, Rushcliffe Borough Council [2016] EWHC 2853 (Admin)

⁶ APP/Q3115/W/23/3317169 dated 22 October 2024