



Appeal Decisions

Site visit made on 29 October 2025

by **David Jones BSc (Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 February 2026

Appeal A Ref: APP/Q1825/X/23/3331827

Brookside Barn, Swansbrook Lane, Feckenham, Worcestershire B96 6QB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr and Mrs Nick Fenton against the decision of Redditch Borough Council.
 - The application ref 23/00293/CPL, dated 8 March 2023, was refused by notice dated 3 May 2023.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is the completion of barn conversion to create 1x residential dwelling, as permitted (Planning Reference 20/01232/CUPRIO), as shown on the approved plans, submitted with this application.
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Appeal B Ref: APP/Q1825/W/23/3331808

Brookside Barn, Swansbrook Lane, Feckenham, Worcestershire B96 6QB

- 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 Nick Fenton against the decision of Redditch Borough Council.
 - The application Ref is 23/00294/CUPRIO.
 - The development proposed is described as “One dwelling”.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Background and Preliminary Matters

3. An application¹ for prior approval under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”) for the conversion of the existing barn to a dwelling was first granted at the appeal site in 2016. A second application² was subsequently granted by the Council in 2019.
4. A third application³ for prior approval for the “*Change of use of agricultural building to dwelling*” was approved by the Council on 22 December 2020 (“the 2020 approval”). Following receipt of the prior approval, works commenced on site. The

¹ Council Ref: 2016/241/COUPRO

² Council Ref: 19/01366/CUPRIO

³ Council Ref: 20/01232/CUPRIO

Council though were of the view that these works were not authorised by the 2020 approval which could no longer be carried out.

5. The appellants subsequently submitted an application under section 192 of the Town and Country Planning Act 1990 (“the 1990 Act”) seeking certification that the proposed completion of the development subject of the 2020 approval was lawful. Appeal A is made against the Council’s refusal to grant a LDC.
6. The relevant date for ascertaining whether the proposed development would be lawful is 8 March 2023, when the LDC application was made. Thus, the LDC application was seeking a certificate to confirm that on 8 March 2023, the proposed change of use of the agricultural building to a dwelling was lawful. For the purposes of obtaining an LDC, the burden of proof lies with the appellants, with the standard of proof being the balance of probabilities. The decision will be based strictly on the submitted evidence and planning law. The planning merits of the case are not relevant.
7. Appeal B relates to the refusal of a fresh application for prior approval under Schedule 2, Part 3, Class Q of the GPDO for the change of use of an agricultural building to a dwelling. The application was dated 8 March 2023 and was refused by the Council on 3 May 2023.
8. On 21 May 2024, Statutory Instrument 2024 No 579 came into force amending Article 3(1), Schedule 2, Part 3, Class Q of the GPDO. However, as the Council’s decision was made before 21 May 2024, transitional arrangements apply. I have proceeded to determine Appeal B in accordance with the GPDO provisions that were in force at the time of the original application.
9. In respect of Appeal B, I have taken the description of development in the banner header above from the Council’s decision notice and the appeal form, as it is accurate and concise and because there was no easily useable description within the application form.
10. Both appeals relate to the same building and appellants. Given the issues pertaining to each case are similar, for the sake of avoiding duplication, I have determined them in a single decision notice.

Appeal A

Main Issue

11. The main issue is whether the Council’s decision to refuse to grant a LDC is well-founded. This turns on whether the proposed works to complete the barn conversion to one residential dwelling are permitted under Class Q of Part 3 of Schedule 2 of the GPDO, having regard to the details granted in the 2020 approval.

Reasons

12. The GPDO grants deemed consent for various works and changes of use subject to such development meeting the various conditions and limitations set out in the Order. Class Q of Schedule 2, Part 3 says that (a) development consisting of a change of use of an agricultural building to a dwellinghouse is permitted development subject to specified limitations. In turn, class Q(b) says that building operations reasonably necessary to convert the building are also permitted development.

13. Where the proposed development concerns a change of use and operational works, under Q.2(1) the developer is required to make an application to the local planning authority for a determination as to whether the prior approval of the authority will be required. The effect of this requirement is that under Class Q, development can only proceed if the Council determines that its prior approval will not be required, or if the Council gives its approval in respect of the matters that the authority is required to consider.
14. In this instance the Council determined that prior approval was required and granted, subject to conditions. However, the grant of prior approval does not result in a permission for development that would not otherwise satisfy the terms of the Order. The Council's grant of prior approval merely enables the appellant to proceed with the development in accordance with the submitted details, subject to the proviso that the development was in fact permitted by the relevant part of the Order.
15. The Council's position is that a significant amount of the blockwork that formed part of the external walls of the building has been removed, contrary to condition 2 of the 2020 approval which required the development to be carried out in accordance with the listed plans and drawings. It is further stated that the extent of the works may go beyond what could be considered a conversion and now amount to a fresh build.
16. Condition 2 of the 2020 approval states:

"The development hereby approved shall be carried out in accordance with the following plans and drawings:

Existing & Proposed Site Plans – Drawing no. SJD-264-002 rev B

Existing & Proposed Plans/Elevations – Drawing no. SJD-264-001 rev B"
17. It is clear from the drawings referred to above and photographs provided by both parties that at the time of the 2020 prior approval application the barn was a steel framed building with a corrugated metal roof, with its external walls comprising full height corrugated metal cladding (on three sides) with a low-level block work wall behind. Large double doors were found on its front (north-eastern facing) elevation.
18. There is no dispute between the parties that the corrugated metal cladding was shown on the approved plans to be removed from all four walls of the barn and subsequently replaced with timber cladding above the block work walls. The area of dispute relates to the removal of the block work walls, which the Council argues is not in accordance with the 2020 approval, which can now no longer be carried out.
19. The appellant argues that the block work walls were not structural and could not be left in place, and that the insertion of new openings to provide windows and doors would have resulted in the removal of much of the block work in any event. The appellant also contends that no conditions were attached specifically preventing the removal of the block work walls or controlling how the finished development should be achieved. To support this position the case of *Swire*⁴ is referred to, which discussed the meaning and effect of the words "in accordance with" in relation to a planning condition. In particular, it is argued that words such as "exactly in accordance" or "strictly in accordance" could have been used.

⁴ *Swire, R v Canterbury City Council* [2022] EWHC 390 (Admin)

20. In my view though the findings in the case of *Swire* are not directly relevant to this case. Firstly, it should be noted that the case of *Swire* related to whether plans submitted at reserved matters stage were “in accordance” with plans approved as part of an outline planning permission. Those circumstances, to my mind, differ greatly from an application for prior approval under the relatively restricted scope of Schedule 2, Part 3, Class Q of the GPDO as is the case here.
21. Nevertheless, Holgate J referred to the Oxford English Dictionary definition of “*in accordance with*” which is given as meaning “*in agreement or harmony with; in conformity to; according to*”. Whilst, as referred to by the appellant, Holgate J did state that a draftsman of a planning permission could go further by adding language so that the development must be carried out “exactly” or “strictly”, this was somewhat caveated in paragraph 44 where Holgate J further reasoned that “*Deciding whether a development is in conformity or harmony with parameter plans may well involve matters of planning judgement and degree*”.
22. In this case, approved drawing no. SJD-264-001 rev B which includes the existing and proposed elevations of the building is the most relevant. The drawing includes an image titled “*Proposed Brick Slip Cladding Section*” which clearly refers to “*Existing 100mm wide low level blockwork wall*”. The image depicts that the brick slip cladding will be applied to the existing block work wall. Similarly, a table titled “*Proposed External Finishes Schedule*” describes the finish of the external walls and includes “*Brick slips on existing blockwork walls repaired/strengthened or timber frame supports at high level*”.
23. Particularly when considering the drawings in the context of development under Schedule 2, Part 3, Class Q of the GPDO, I find that the use of the word “existing” when describing the block work walls to mean something that exists now. That of course cannot be the case if they are removed. Therefore, in my judgement, and as a matter of fact and degree, I find the removal of the block work walls to not be in accordance with the approved drawings.
24. There is though a wider question as to whether the removal of the block work walls takes the development outside of the scope of Schedule 2, Part 3, Class Q in any case. As I have already set out earlier in this decision, the granting of prior approval by the Council is subject to the proviso that the development is in fact permitted by the relevant part of the Order.
25. Limitations to what is permitted under Class Q are set out in paragraph Q.1 of Part 3. Works permitted under Class Q(b) are limited to 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; and partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
26. The High Court held in the case of *Hibbitt*⁵ that, in order to benefit from Class Q(b) permitted development rights, 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. The Planning Practice Guidance (PPG)⁶ thus states that:

⁵ *Hibbitt & Another v SSCLG and Rushcliffe Borough Council* [2016] EWHC 2853 (Admin)

⁶ PPG Paragraph: 105 Reference ID: 13-105-20180615

“the right assumes that the agricultural building is capable of functioning as a dwelling. The right permits building operations which are reasonably necessary to convert the building, which may include those which would affect the external appearance of the building and would otherwise require planning permission...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”.

27. It is clear therefore that while all aspects of the barn can be replaced (windows, doors, walls, and roof) as set out in Q.1(i)(i)(aa), if all, or the majority of them, need replacing at the same time then the barn would not be suitable for conversion in the first place. What is clear is that the works to convert the barn to a dwelling have thus far consisted of the removal of virtually all four external walls, leaving the steel frame and metal corrugated roof. Going forward the development will entail the complete construction of four new external walls, plus the insertion of the various windows and doors. Put simply, everything apart from the steel frame and metal corrugated roof would be new or rebuilt. In my judgment, the completion of the proposed development would not result in the barn being converted, but it would essentially result in the barn being rebuilt.
28. This position very much accords with *Hibbitt*, where the court found that the Inspector had not misdirected herself and her analysis was correct. She found that the barn was structurally capable of being converted but that all four exterior walls needed to be replaced which went far beyond a conversion. That is precisely the case in this appeal, where all four walls have been removed and are proposed to be replaced. I therefore find that the proposal falls outside the requirements of Schedule 2, Part 3, Class Q of the GPDO.

Other Matters

29. The relevant date for ascertaining whether the proposed development would be lawful was 8 March 2023, that being the date on which the LDC application was made. The Inspector notes however that condition 1 of the 2020 approval repeats condition Q.2(3) of the GPDO. Q.2(3) sets out that development under Class Q is permitted subject to the condition that development under Class Q(a) and Class Q(b) must be completed within a period of 3 years starting with the prior approval date. The prior approval date in this case was 22 December 2020, and therefore the period to complete the works approved under the 2020 approval would have expired on 22 December 2023.

Appeal B

Main Issue

30. Schedule 2, Part 3, Class Q of the Order permits (a) the change of use of an agricultural building to residential use; or (b) the change of use together with building operations reasonably necessary to convert the building. In this case, both a change of use and building operations to convert the building in question are proposed. The main parties disagree as to whether the scope of the building operations proposed would constitute a conversion of the building, and therefore, whether it would fall within the scope of the development permitted by Class Q(b).

31. The Council does not dispute that the proposal is acceptable with regards to the other matters required to be satisfied under paragraph Q.1.
32. Consequently, the main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO, having particular regard to the extent of the proposed building operations and the requirements of the Order.

Reasons

33. The appeal building is a steel framed structure with a corrugated metal roof. Save for a small section of a low-level block work wall on the south-west elevation, and a single course of blockwork around its periphery, the building is an open sided structure. The ground inside the building consists of rubble and grass, with little remaining of any previous concrete floor.
34. Paragraph Q.1(i) of the Order permits the installation or replacement of windows, doors, roofs, or exterior walls to the extent reasonably necessary for the building to function as a dwellinghouse and partial demolition to the extent reasonably necessary to carry out such works. The PPG provides further guidance in this regard, establishing 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.
35. I have been provided with a structural survey by GCA Consulting dated 15 November 2019 which was originally submitted in association with the 2020 approval. The survey concludes that the barn structure as existing is in good condition, and the calculations confirm that the structure is adequate to carry the loadings for a residential property. It is clear though that the barn has changed significantly since this survey was undertaken, with the removal of the metal cladding from all four elevations, the vast majority of the low-level block work wall, and concrete floor.
36. A more recent letter dated 14 May 2021 from CSG Consulting Engineers has also been provided, which comments on the low-level block work walls which had been removed. The letter states *"We understand that the walls were not connected to the steelwork and we can confirm that such walls do not contribute to the overall stability of the steel frame"*. The Council argues that this contradicts the previous survey which stated that the block work walls enhanced stability.
37. Nevertheless, whilst I have no reason to doubt the structural integrity of the steel frame and its ability to carry the additional loadings required for residential use, the demonstration of the structural integrity of the steel frame alone is insufficient to meet the requirement of the Order in this case.
38. From what I have seen and read, the existing building consists of a largely skeletal open frame and has existed as such for a material period of time, which includes the date of the application for prior approval. As a result, the appeal building would not be capable of functioning as a dwelling without a significant amount of building works and new fabric.

39. It is apparent from the submitted plans that the proposal would require the erection of new walls with timber boarding and various openings to all four elevations, the insertion of aluminium rooflights, and a new concrete floor. I acknowledge that substantial works can fall within the scope of Class Q, however they should comprise of a conversion of the building rather than a rebuild. I have had regard to the case of *Hibbitt* and the PPG on this matter.
40. The scale and nature of the works would in my view go beyond what is reasonably necessary to convert the building to a residential use and would instead represent a rebuild. Even taking into account the retention of the steel frame and metal corrugated roof, as a matter of fact and degree, the extent of the works would exceed what could be reasonably described as a conversion.
41. I therefore conclude that the proposal would not fall within the scope of Class Q of Part 3 of the GPDO and would not be permitted development.

Conclusion

Appeal A

42. For the reasons given above, on the evidence now available, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed completion of barn conversion to create 1x residential dwelling was well-founded and the appeal fails. Accordingly, I shall exercise my powers under section 195(3) of the 1990 Act, as amended.

Appeal B

43. For the reasons set out above, I conclude that the proposal would not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO. The appeal is therefore dismissed.

David Jones

INSPECTOR