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# Appeal Decision

Site visit made on 4 July 2016

**by Gareth W Thomas BSc(Hons), MSc(Dist), PgDip, MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 07 July 2016**

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## **Appeal Ref: APP/L3245/W/16/3147814**

### **Barn at Pontesbury Hill, Pontesbury Hill, Shrewsbury SY5 0YQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town & Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mr M J Pugh against the decision of Shropshire Council.
  - The application Ref 15/04091, dated 1 September 2015, was refused by notice dated 18 November 2015.
  - The development proposed is described in the Statement of Case as the change of use of an agricultural building to a single dwelling.
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## **Decision**

1. The appeal is dismissed.

## **Procedural Matters and Main Issues**

2. Class Q permits development consisting of a change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class 3 (dwellinghouses) of the Schedule to the Use Classes Order and any building operations reasonably necessary to convert the building. Development is not permitted under Class Q subject to a number of conditions, limitations or restrictions which are set out under paragraph Q1(a) to (m).
3. The Council's case is that Class Q does not apply, firstly because it claims that the building operations that would be required in this case are beyond the limitations set in the permitted development criteria under Class Q.1 sub-paragraph (i) which specifies the list of works that are permitted to the extent reasonably necessary for the building to function as a dwellinghouse, and; secondly that there was insufficient evidence to demonstrate that the building was not used solely for agriculture as part of an established agricultural unit on 20 March, 2013.
4. Accordingly, the main issues in this appeal are:
  - Whether the extent of works required to convert the building would fall within the scope permitted under Class Q, and
  - Whether the site was solely in agricultural use, as part of an established agricultural unit, within the relevant timeframes.

## Reasons

*Whether the extent of works required to convert the building would fall within the scope permitted under Class Q*

5. The appeal site is located in the middle of a field, which is currently used for beef cattle grazing. It is accessed via a field gate off Pontesbury Hill opposite a ribbon of houses via an un-metalled track that crosses the open field. The proposal relates to a single storey three bay steel framed structure presently clad with steel sheets above a low concrete block wall with two of the bays open to the front as it faces north. The building is presently empty and generally open with one bay enclosed to provide storage facilities. There are a few sheep pens within the first two bays. The floor throughout appears to be finished as a consolidated hardcore base.
6. Details of the elevations and floor plans of the proposed dwelling have been supplied with the application. These include new insulated walls to replace the single external steel sheet layer, the installation of a floor together with internal walls to sub-divide the living space that will provide a four-bedroom house over two floors. No structural survey has been submitted to show the extent to which the existing structure would be retained and the works needed to accommodate the proposed dwelling although the appellant is confident that the existing framework is structurally sound and capable of taking any additional loading.
7. The plans suggest that the structural columns will be retained to take the existing loads of the roof structure and the additional loading of the new floor. The exterior walls of the dwelling would be built with the existing metal sheeting re-used where practicable to the majority of the walls and roof with some timber infill panels to part of the front. There is no mention made of what would be necessary in terms of wall and floor insulation; no mention either is made of what would be necessary in terms of new floor provision.
8. The Planning Practice Guidance (PPG) states that "it is not the intention of the permitted development right to include the construction of new structural elements for the building. Therefore it is only when the existing building is structurally sound enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have permitted development right".
9. From what I saw on site, I share the Council's concerns that the extent of works required, in particular the insertion of a large expanse of first floor flooring, the provision of a new floor at ground floor level, the infilling with new walling and the likelihood of new or strengthened foundations. This would in my view be tantamount to the re-construction of the building, which would be beyond the scope permitted under Class Q.
10. There is nothing in the evidence before me to indicate that the proposed additional walling inside the steel sheets would not require to be supported by new foundations. It appears to me that the sheeting would need to be removed and set aside whilst new foundations and flooring constructed. Irrespective of what could reasonably be salvaged from the existing building materials, the works necessary would amount to a significant area of new construction.

11. I note the appellant's point that the infilling of the framework using existing sheeting where possible and the insertion of windows and doors fall within one of the building operations permitted under Class Q and that the works of demolition would probably only amount to the removal of the existing cladding. However this appears to be based on what amounts to be a cursory assessment of the existing structure. The permitted development rights under Class Q(b) refers to building operations "reasonably necessary to convert the building". The extent of new construction would amount overall to a new building with very little of the original left. This could not reasonably be described as either partial demolition or as conversion of the existing structure. In my view, the extent of works needed for the building to be used as a dwelling would fall outside the scope of Class Q.

*Whether the site was solely in agricultural use, as part of an established agricultural unit, within the relevant timeframes*

12. 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 on 20 March 2013, or if it was not in use on that date, when it was last in use.
13. In terms of whether it was solely in agricultural use, the Council has not provided any substantive evidence to dispute the appellant's suggestion that put simply, it was in agricultural use at the relevant date. The evidence that the building was once used to store a car is rather woeful and possibly irrelevant. However, neither has the appellant proffered any evidence of his own in the form of farm business invoices, sales of stock or similar evidence of agricultural activity at that date. This impasse created by a dearth of evidence from both sides means that there remains a great deal of uncertainty that the building was indeed solely in agricultural use as part of an established agricultural unit on this date.
14. Therefore in the absence of substantive evidence to refute the Council's submissions, I can only reasonably conclude that the appeal site was not part of an established agricultural unit for the purposes of Class Q.1. Under the circumstances, I need not venture into the design concerns of the Council.

### **Conclusion**

15. For the above reasons and having regard to all other matters raised, I conclude that this appeal should be dismissed.

*Gareth W Thomas*

INSPECTOR