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# Appeal Decision

Site visit made on 5 July 2016

**by G Fort BA PGDip LLM MCD MRTPI**

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

**Decision date: 10 August 2016**

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**Appeal Ref: APP/L3245/W/16/3147333**

**Land between Lognor and Little Ryton, Shropshire**

- 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 as amended).
  - The appeal is made by Mr Phil Evans against the decision of Shropshire Council.
  - The application Ref 15/03493/PMBPA, dated 11 August 2015, was refused by notice dated 26 October 2015.
  - The development proposed is change of use from agricultural to residential use.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. This appeal is in respect of the right arising from Schedule 2, Part 3, Class Q of the Town and Country Planning Act (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO"). Subject to a prior approval process, Class Q of the GPDO grants permission for the change of use from agricultural buildings to dwellinghouses.
3. The description of development on the application from states "Please see accompanying planning statement". As this lacks substantive detail of the scheme, I have used the description of development from the decision notice, which is an accurate reflection of the nature of the proposal, in the banner heading above.

## Main Issue

4. I consider the main issue in this appeal to be whether or not the proposal constitutes permitted development for the purposes of the GPDO, with particular regard to paragraphs Q.1 (a) and (i).

## Reasons

5. The appeal property is a substantial barn with a lean-to extension to one side. With the exception of its front elevation, which features a roller shutter door, the building is of a lightweight construction with corrugated sheeting cladding a structure of steel members over a concrete slab. Some blockwork is employed in the lower parts of the external walls of the lean-to extension.

6. The appeal scheme seeks to convert the building for residential use. Externally this would include the installation of extensive amounts of fenestration on all elevations. Blockwork would be employed in the lower parts of the walls, with the existing elevational cladding to be otherwise retained where reasonable, and upgraded where necessary. A similar lightweight material would be employed in the roof covering.
7. I have considered whether the proposal complies with paragraph Q.1 (a). This states that development is not permitted by Class Q if, amongst other matters, "the site was not used solely for an agricultural use as part of an established agricultural unit". At my site visit I noted that the building was within agricultural uses, with the main part of the barn used for the storage of agricultural machinery, and the lean-to element housing pens, some with hens, some with pigs and others used for storage of feed and other agricultural paraphernalia. I am also mindful of the appellant's statement, which suggests that the pens are also used for lambing and the main barn for the storage of hay.
8. The appellant contends that this agricultural use was ongoing on 20 March 2013. However, the Council supplied a copy of the original planning application documents for the appeal property from 2007<sup>1</sup>, which show elements of the building to be used for stabling, a tack room and horse box storage. This would indicate that at the time of the original application the intention was to use the building for equestrian rather than agricultural use. I have no substantive evidence before me to suggest that the horses this building was originally intended for were to be used for an agricultural purpose. Whilst mindful of the appellant's case that the building has always been used solely for agricultural purposes, the original planning permission was clearly for a building with a significant element of equestrian use. In the absence of more persuasive evidence to the contrary, I am thus unable to conclude that the building was in use solely for agricultural purposes on 20 March 2013.
9. Moreover, I note that the lean-to element of the barn was not part of the original planning permission for the building. I have been supplied with no evidence, such as a Certificate of Lawful Development, to suggest that this element of the structure is lawful in planning terms. Consequently, in the absence of compelling evidence regarding the lawfulness in planning terms of the lean-to element of the building, I am not persuaded that the proposal would comply with the requirements of section (3) paragraph 5 (a) of the GPDO which states that: "The permission granted by Schedule 2 does not apply if... in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful". Thus, combined with the lack of substantive evidence regarding the agricultural use of the scheme, my doubts about the lawfulness of the lean-to extension lead me to the conclusion that the proposal would not constitute permitted development for the purposes of the GPDO.
10. Paragraph Q.1 of the GPDO states at (i) that development under Class Q is not permitted if it would "consist of building operations other than the installation or replacement of (aa) windows, doors, roofs, or exterior walls, or (bb) waste, drainage, electricity, gas or other services to the extent reasonably necessary for the building to function as a dwellinghouse."

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<sup>1</sup> Council reference SA/07/0555/F

11. The Government's Planning Practice Guidance (PPG) at paragraph 105<sup>2</sup> gives further advice on the interpretation of this section. It 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 where the existing building is structurally strong enough to take the loading which comes with the external works to provide for residential use that the building would be considered to have the permitted development right."
12. In making my assessment of the scheme I am also cognisant of paragraph W of Schedule 2, Part 3 of the GPDO which states that the local planning authority may refuse an application where, in the opinion of the authority- (a) the proposed development does not comply with, or (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in this Part as being applicable to the development in question".
13. I saw at my site visit that the purpose of the structure was principally to enclose space for storage of haybales and farm machinery, rather than to support the more considerable loading that would be likely to arise from the residential use proposed. Whilst there is a metal roller shutter door on the front elevation of the appeal property, the other elevations are largely blank and lacking in similarly weighty items. I saw that the front two structural steel members were braced together at the rafters, and this may have been to provide support for the roller shutter door. I saw no other similar bracing in the rest of the barn. The appeal proposal would be likely to increase loading considerably on the currently blank elevations through the insertion of extensive fenestration. An additional floor within the building would also increase the load. Whilst I am aware of the assertion that buildings such as this are built to take significant loads, and that the frame has supported the blockwork walls for a number of years, I have no substantive evidence to show how it would cope with the additional loads arising from the appeal scheme. A lack of substantive evidence about the nature of the roof covering in terms of its suitability for residential use, combined with the additional loading on the structure from the proposed rooflight, also add to my overall concerns in these regards.
14. In assessing the scheme I have also had regard to the appeal decisions brought to my attention by the appellant<sup>3</sup> however, in both cases these were related to structures of a more modest scale and are not directly comparable. Moreover, I have nothing before me regarding the level of structural detail the Inspectors in those cases were provided with. I note also the appellant's suggestion that internal structural works are not development for the purposes of the Town and Country Planning Act 1990 (as amended) and, that as the PPG does not mention internal works an assessment of these should not be included in regards to the structural suitability of the proposal for residential conversion. This may be the case, however, this would not alter my conclusions on the insufficiency of information submitted to suggest that the existing structure could take the additional loads that would result from the proposal.

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<sup>2</sup> Reference ID 13-105-20150305

<sup>3</sup> APP/P1133/W/15/3030427 and APP/Q1825/W/15/3006087

**Other Matter**

15. As I have concluded that the proposal is not permitted development for the purposes of the GPDO it does not now fall on me to assess the prior approval criteria of the scheme as part of this appeal.

**Conclusion**

16. For the reasons given above, and in having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*GJ Fort*

INSPECTOR