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## Appeal Decision

Site visit made on 4 December 2017

**by K Ford BSocSc (Hons) MSc MRTPI**

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

**Decision date: 5<sup>th</sup> January 2018**

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**Appeal Ref: APP/L3245/W/17/3182104**

**Walks Farm, Greete, Ludlow, Shropshire SY8 3BS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
  - The appeal is made by Mr Carl Huntbach against the decision of Shropshire Council.
  - The application Ref 16/05771/PMBPA, dated 19 December 2016, was refused by notice dated 14 February 2017.
  - The development proposed is change of use of fodder barn to one dwelling (prior notification under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015).
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The proposed development is described as 'fodder barn' on the notification of Prior Approval form. I have however instead used the description on the decision notice in the banner as it more comprehensively describes what is proposed.

### Main Issue

3. The main issue is whether the proposed conversion constitutes permitted development in accordance with Class Q(a) of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (GDPO).

### Reasons

4. Class Q of Schedule 2, Part 3 of the GPDO allows development involving a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouse) (Class Q(a) development). In addition, Class Q(b) permits building operations that are reasonably necessary to convert the dwelling to a Class C3 use (Class Q(b) development. Paragraph Q1 identifies the specific circumstances under which development is not permitted and Paragraph Q2 lists the conditions applying to Q(a) and Q(b) development.
5. The conditions in paragraph Q.2 set out where development proposed is development under Class Q(a) only, development is permitted subject to the condition that before beginning the development, the developer must apply to

the local planning authority for a determination as to whether the prior approval of the authority will be required as to the items referred to in subparagraphs Q.2 (1) (a)-(e). Paragraph W(3) of the GPDO states that an application for prior approval may be refused where it does not comply with any conditions or limitations applicable to Class Q or where there is insufficient information to establish such compliance. In considering whether the proposal meets the requirements set out in Paragraph Q1 for the development to be permitted under Class Q(a) consideration of the criteria (a)-(m) in paragraph Q.1 is required.

6. There is agreement between the parties that the extent of the curtilage proposed would meet the requirements set out in Paragraph X and I have no reason to doubt this. Similarly there is no evidence to question that with regards Q1(a) the site has not been used for anything other than an agricultural use as part of an established agricultural unit on 20 March 2013 . On my site visit I saw that the barn contains agricultural equipment and some building rubble which may be associated with the adjacent conversion of the dairy parlour to a residential use under a separate planning permission (16/05772/PMBPA). The Council confirm that the cumulative floorspace of that development plus the proposal would not exceed 450m<sup>2</sup>. They also confirm that the total number of separate dwellinghouses developed under Class Q would not exceed 3 within the established agricultural unit. There is no occupation under an agricultural tenancy and a statement by the appellant, which is undisputed by the Council, confirms that no agricultural tenancy has been terminated previously. The provisions of criteria (c)-(e) are consequently met.
7. The Council state that no agricultural permitted development rights (GPDO Part 6) have been exercised on the holding since 20 March 2013 and none of the proposed alterations would extend beyond the buildings existing external dimensions so criteria (f) and (g) are met. The evidence submitted by the appellant and the Council confirm that the matters identified in Q1(j)-(m) with regards designations covering the site or the building would not exclude the proposal from being permitted development. Sub paragraph Q(1)(i) relates to building operations that would not be permitted under Class Q(b) and is cited in the Council's reason for refusal on the grounds that the proposal would go beyond works reasonably necessary for the building to function as a dwellinghouse.
8. The Government's Planning Practice Guidance advises that the Permitted Development right to change the use of an agricultural building to residential assumes that the agricultural building is capable of functioning as a dwelling. There is recognition that for the building to function as a dwelling some building operations that would affect the external appearance of the building, which otherwise would require planning permission, should be permitted. However, it states that it is not the intention of the permitted development right to include the construction of new structural elements for the building. It is only where the existing building is structurally strong enough to take the loading that comes with the external works to provide for residential use that the building would be considered to have the permitted development right.
9. In making my assessment of the proposal I am also conscious 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’.

10. The existing barn is a lightweight structure with a frame formed of steel columns and cross beams. It has a high arched corrugated sheet roof with corrugated lean to’s at the sides and to the rear. The sides are essentially open with some parts of the lean to walls being prefabricated sheeting panels. The floor of the structure is made of earth that is similar to surrounding land. The principal use of the barn for storage would have significantly less loading than that likely to occur from a residential use, particularly when what is proposed would be a 2 storey development.
11. On the basis of the nature of the building I saw on my site visit and what is shown on the submitted drawings I am not satisfied that the existing building would be capable of functioning as a dwelling without extensive works being undertaken. The development required to create a dwelling would not amount to a conversion or change of use of an existing building but would in effect be the erection of a new dwelling where only the existing steel framing is retained. This would not constitute permitted development under the provisions of Class Q.
12. The appellant identifies that the development would be built to a Passivhaus standard and would be a significant improvement on the appearance of the building and the wider area with the scale, proportions and use of materials reflecting the former agricultural function. Images of other ‘dutch barn houses’ have also been provided although I have no evidence of their planning history. The appellant also suggests the site can be appropriately accessed and is not within a flood risk zone and that there are no known contamination risks on site. They also state that the proposal would not cause harm to the living conditions of the occupants of neighbouring properties. It is however not necessary for me to reach a conclusion on this and the merit of other matters relating to prior approval as I have found that the proposal would not be permitted development.

## **Conclusion**

13. For the reasons identified, I conclude that the appeal is dismissed.

*K Ford*

INSPECTOR