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## Appeal Decision

Site visit made on 7 January 2025

by **U P Han BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6<sup>th</sup> February 2025

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**Appeal Ref: APP/L3245/W/24/3351197**

**Rose Cottage, Prees Green, Whitchurch, Shropshire SY13 2BN**

- 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 Don Carissimo against the decision of Shropshire Council.
  - The application Ref is 24/01875/PMBPA.
  - The development proposed is change of use of an existing redundant agricultural building into a one bedroom dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council assessed and determined the application for prior approval under the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024 No. 579 (GPDO) which came into force on 21 May 2024. However, as the application that is the subject of this appeal was made before that date, I have determined this appeal in accordance with the GPDO that applied at the time the application was made. All references to the GPDO in this decision therefore relate to the version that was in force at that time.
3. Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO permits development consisting of 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 (dwellinghouses) of the Schedule of the Use Classes Order 1987 (as amended), and the building operations reasonably necessary to convert the building. This is subject to various limitations and conditions as set out in paragraphs Q.1 and Q.2 of that Class.
4. Schedule 2, Part 3, Section W of the GPDO outlines the prior approval process, and provides that a local planning authority may refuse an application where, in the opinion of the authority, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified as being applicable to the development in question.

## Background and Main Issues

5. The Council refused the application on the basis that insufficient information has been submitted to demonstrate that the appeal site is or was used solely for an agricultural use as part of an agricultural unit. Under paragraph Q.1.(a) of the GPDO, development is not permitted by Class Q if (a) the site was not used solely for an agricultural use as part of an established agricultural unit –
  - (i) on 20th 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 20th March 2013, for a period of at least 10 years before the date development under Class Q begins
6. Furthermore, the Council refused the application on the basis of failure to comply with paragraph Q.1(g) due to alterations to the appeal building undertaken within the last year.
7. Notwithstanding this, the Council also considered the proposal would fail to comply with paragraph Q.1(h) which indicates that development is not permitted where the development would result in external dimensions of the building extending beyond the external dimensions of the existing building at any given point unless, amongst other matters, (i) the development under Class Q(b) would result in an extension that has eaves the height of which exceed the height of the eaves of the existing building (iv).
8. Moreover, the Council refused the application on the basis that insufficient information has been provided to demonstrate the structural suitability of the building or the amount of work required to convert the building to a dwelling, thus failing comply with paragraph W(3)(b).
9. The Council's Decision Notice also referred to non-compliance with of the Q.1.(j) of the later version of the GPDO which was formerly paragraph Q.1.(i).
10. As explained above, my determination of this appeal is based on the GPDO that applied at the time the application was made. Therefore, those aspects of the case which rely upon the later version of the GPDO are not applicable in my determination.
11. Accordingly, the main issues in this appeal are whether the proposal would be permitted development by Article 3, Schedule 2, Part 3, Class Q of the GPDO having particular regard to:
  - whether the appeal site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or if the appeal building was not in use on that date, when it was last in use, (paragraph Q.1.(a)) and if so:
  - whether development under Class A (a) or Class B (a) of Part 6 of the GPDO has been carried out on the established agricultural unit (paragraph Q.1.(g));

- whether the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point Q.1.(h)); and
- whether sufficient information has been provided to demonstrate the structural stability of the building or the amount of work required to convert the building to a dwelling (paragraph W(3)(b)).

## Reasons

### *Agricultural Use*

12. The appeal site relates to a single storey brick building with a dual pitched roof. The site is located in the countryside with vehicular access via a driveway off the A49. The building is to the north of Rose Cottage which is a two-storey detached house. There is no dispute that the appeal building is not currently in agricultural use and based on my site visit I agree.
13. Schedule 2, Part 3, paragraph X of the GPDO states that 'agricultural building' means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business, and 'agricultural use' refers to such uses.'
14. The submitted Prior Approval Statement says that the appeal site was in use as an agricultural unit on 20 March 2013. Based on the submitted drawings, the extent of the stated agricultural unit follows the boundary of the appeal site.
15. Two animal health registration documents dated 1 and 8 July 2011 for pigs and sheep at the primary location of Rose Cottage have been provided as part of the appellant's evidence. However, animal health registration documents do not prove agricultural use on their own as livestock can also be kept as pets.
16. The appellant indicates that the appeal building, also known as Building C, was one of three buildings on the 'overall site.' Planning permission was granted to convert Building A in the wider site into a dwelling under Class Q at appeal<sup>1</sup>. The appellant indicates that the same 'agricultural certificates', which I infer are the animal health registration documents, were accepted. However, I do not have the full details that were before the then Inspector so cannot be certain the circumstances are the same and that there were no other factors or evidence which led to the determination that Building A was in agricultural use. In any event, I must determine this appeal on the evidence submitted.
17. As the animal health registration documents identify Rose Cottage as the primary location, it is unclear which building(s) the animals were specifically kept. If, as the appellant claims, the appeal site constituted its own agricultural unit, it would be separate to the agricultural unit relating to Rose Cottage. Based on the evidence before me, there is insufficient evidence to link the animal health registration documents to the appeal site. In any event, for the reasons explained above, animal health registration documents, do not by themselves, provide sufficient evidence of agricultural use. Furthermore, the documents which are dated 1 and 8 July 2011, do not provide sufficient evidence that the appeal site was in agricultural use on the 20 March 2013, or when it was last in use for agricultural purposes.

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<sup>1</sup> Ref APP/L3245/W/19/3220888.

18. The appellant indicates that the appeal site was used for rare breed pigs on a commercial basis and that the pigs were bred to provide bacon for a café. However, no evidence has been submitted relating to the purported trade or business operation.
19. Photographs of chickens and pigs in and around the appeal building have also been submitted. The appeal building can be seen in the background in one of the photographs. However, the photographs are not dated so I cannot be certain when they were taken. Similarly, the comment from the neighbour about feeding chickens in the building is not specific on dates only that this has taken place over the last few years.
20. The 1880 and 1972 Ordinance Survey plans submitted by the appellant show that the appeal building has existed for a very long time, but they do not confirm it was in agricultural use on the 20 March 2013, or when it was last in agricultural use.
21. The appellant says that there were old iron rings for tying up livestock in the appeal building. However, while they may have existed before, there is no evidence of when they were last used for tying up livestock.
22. Despite the appellant's claim that there were a few pigs on site briefly at the end of 2014, is it unclear when the appeal site was last in agricultural use due to the absence of information regarding the purported trade or business of rare breed pigs. This is important given the definition of an 'agricultural building' provided in Schedule 2, Part 3, paragraph X of the GPDO. In the absence of substantive evidence relating to the purported trade or business, it cannot be ascertained as to precisely when the stated agricultural use ceased. The stated presence of a few pigs on the site in 2014 does not provide sufficient evidence of agricultural use as defined in paragraph X of the GPDO.
23. Based on the limited evidence before me, I cannot conclude with certainty that the appeal site was used solely for an agricultural use as part of an established agricultural unit on 20 March 2013, or when it was last in use. Consequently, the proposal would not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO.
24. As I have concluded that the proposal is not permitted development under Class Q.1(a) of the GPDO, it is not necessary for me to make any determination on Q.1(g), (h) and (i) of the GPDO.

### **Other Matters**

25. Whether the Council has been influenced by the Parish Council's views is not a matter for my consideration as I have determined the appeal only on the planning merits of the case.
26. The comment from the neighbour about feeding chickens in the building is not specific on dates only that this has taken place over the last few years.
27. The appellant's statement refers to the benefit of one additional dwelling. However, such matters fall outside the scope of the prior approval process and my determination of this appeal may rest only on the criteria set out in the GPDO.

**Conclusion**

28. For the reasons given above the appeal should be dismissed.

*U P Han*

INSPECTOR