



Appeal Decision

Site visit made on 11 June 2025

by **J Hobbs MRTPI MCD BSc (hons)**

an Inspector appointed by the Secretary of State

Decision date: 7th July 2025

Appeal Ref: APP/R0660/W/25/3360271

Woodiers Farm, Agden Lane, Agden, Cheshire East WA13 0TX

- 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 R H Gleave of CBN Ltd against the decision of Cheshire East Council.
 - The application Ref is 24/3005M.
 - The development proposed is conversion of agricultural building to 2 dwelling houses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner above is duplicated from the Application Form. However, I have removed reference to "... - see planning statement and scale plans." As this does not refer to an act of development.
3. Schedule 2, Part 3, Class Q (Class Q) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) was amended on 21 May 2024¹. These amendments have effect subject to transitional provisions, which include allowing developers to make an application for determination as to prior approval in relation to previously permitted development under Class Q until 20 May 2025.
4. The application was submitted on 16 August 2024, and the appellant indicated on the Application Form that they will use the permitted development right as it stood prior to 21 May 2024. Accordingly, I shall determine the appeal on this basis. From this point onwards, any references to the GPDO within my decision will refer to the provisions prior to 21 May 2024.
5. Under Article 3(1) and Class Q of the GPDO, planning permission is granted for the change of use of agricultural buildings to dwellinghouses, subject to limitations and conditions.

Main Issues

6. The main issues are:
 - whether the proposed development would be granted by Class Q of the GPDO; and,
 - the effect of the proposal on protected species.

¹ Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024/579

Reasons

Class Q – design and external appearance

7. Paragraph Q.2(1) of Class Q specifies where the development proposed is development under Class Q(a) and Class Q(b), it 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 several matters. These matters include the design or external appearance of the building.
8. The area surrounding the appeal site is characterised by a patchwork of fields which are delineated by hedgerows. Most of the development in the area is associated with either agricultural or equestrian uses. There are a few dwellings in proximity to the site and they appear to be associated with historic farmsteads or converted agricultural buildings. The area is rural in character.
9. The appeal building is a large agricultural barn which was previously used to house pigs and more recently has been used to store agricultural equipment and hay/straw. It has a simple rectangular form with a single pitched roof, with the gable end facing the road. There are large openings at either end of the building and along one side, above the old pig troughs. The building is steel framed, with blockwork construction at the lower levels. The upper levels and the roof of the building are clad with pitched fibre. The building has a simple utilitarian design which is not uncommon for agricultural development. As such, it assimilates with the rural character of the area.
10. Following the conversion, the form of the building would be largely retained. Also, the proposed external finishes would assimilate with the rural character. Moreover, the windows and doors would be of a simple design which would fit with the functional design of the proposed dwellinghouses. Notwithstanding this, the proposed windows are very large, particularly the two windows at the first-floor level within each of the gable ends. Due to their scale and proportions, the proposed windows would appear discordant within the rural landscape and when viewed alongside the fenestration of nearby dwellings.
11. I acknowledge that the conversion of any agricultural building to a dwellinghouse is likely to make it appear more domesticated. I also acknowledge that the building currently has large openings; however, these are related to the historic use of the building. Nonetheless, the proposed openings would make the dwellinghouses appear overly domesticated and not in keeping with a barn conversion. In turn, this would make the proposed dwellinghouses appear incongruous when viewed from the road.
12. The proposed dwellinghouses would be largely screened from public views due to the existing boundary treatments and a lack of nearby public rights of way. However, due to its height, and the surrounding topography, upper sections of the proposed dwellinghouses would be visible in mid to long distance views. Furthermore, it would be observed from nearby private land. Consequently, the amount of screening does not mitigate the harm that would be caused by the proposed conversion.

13. The appellant has indicated that the building is degenerating. During my site visit I observed a building that was in a good condition and due to its design and form was making a positive contribution to the rural character.

Class Q – curtilage

14. Class Q.(a) permits development 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) ...” Schedule 2, Part 3, Class X (Class X) of the GPDO defines curtilage for the purposes of Class Q as:

“(a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or

(b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building,

whichever is lesser;”

15. Given the existing layout, use of the site, and site ownership it is reasonable to conclude that the curtilage of the agricultural building is larger than the land occupied by it. Therefore, the amount of land that would benefit from a permitted change of use under Class Q would be restricted to the extent covered under part (b) of the definition above.
16. The Proposed Site/Block Plan² includes a red line around the appeal building and an area beside it. It is not contested that the area around the building, enclosed by the red line, is the same size as the footprint of the agricultural building. The Plan shows that this area could accommodate parking for both of the proposed dwellinghouses as well as garden areas. I am satisfied that this area would be of a sufficient size for the enjoyment of the dwellinghouses and could form the curtilage of them.
17. The area around the appeal building which would benefit from the change of use does not relate to physical features within the site. Therefore, without the construction of physical boundaries it may be difficult to control the unauthorised use of land, beyond that identified by the red line. Nevertheless, this should not be a reason to withhold an approval. As above, the development permitted by Class Q is the change of use of an agricultural building and any land within its curtilage, as defined by Class X, to a use falling within Class C3. Any unauthorised development beyond that would be a matter for the Council to enforce and whilst that could be difficult, it would not be impossible.

Class Q – extent of works

18. Class Q.(b) permits “development referred to in paragraph (a) together with building operations reasonably necessary to convert the building ...” Further to this, paragraph Q.1(i) states that development is not permitted by Class Q if “the development under Class Q(b) would consist of building operations other than (i) the installation or replacement of (aa) windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; ...”

² Drawing No. P.01 Rev.02

19. The Planning Practice Guidance (PPG) advises that the right under Class Q assumes that the agricultural building is capable of functioning as a dwellinghouse.³ It further advises that it is not the intention of the development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use.
20. Neither the GPDO nor the PPG define what might constitute 'reasonably necessary'. However, the PPG refers to the Hibbitt Judgment⁴ which established that a building must be capable of conversion without complete or substantial rebuilding, or in effect, the creation of a new building. The Judgment goes on to explain that this is a matter of planning judgement.
21. The application was accompanied by a Structural Report⁵ completed by a member of the Chartered Institute of Architectural Technologists. The Report concludes that it is apparent the existing barn is in a reasonable condition, and they consider the barn to be suitable for conversion to a domestic dwelling. The proposed works include the replacement of the existing roof and side cladding with similar insulated corrugated sheet panels to comply with Building Regulations. The Report also concludes that the building will continue to transfer the proposed loading to the existing foundations without alteration to the structure or footings. Consequently, no substantive works to the existing steel frame would be required to facilitate the proposed conversion. To comply with Building Regulations, the existing floor would require the installation of insulation and a damp proof course, but no further works would be required. Finally, the existing blockwork would be largely retained other than where doors or windows are proposed to be installed and would be built up where necessary, this would be finished with render.
22. The existing steel structure would remain in place and most of the blockwork would be retained. Although the cladding would be replaced in its entirety, this would be to achieve the necessary thermal envelope to meet Building Regulations and would be necessary for the conversion of the building to a residential use. The insertion of windows and doors are necessary to ensure the provision of adequate natural light in all habitable rooms and to ensure the building can be accessed appropriately. Furthermore, Class Q allows the replacement of roofs, and installation of windows and doors. Therefore, whilst the extent of works would be significant, I do not consider that they amount to rebuilding or the creation of a new building. Instead, they would amount to works reasonably necessary to convert an agricultural building to a dwellinghouse.

Class Q – conclusion

23. I conclude that the proposed development would not be granted by Class Q of the GPDO, as prior approval would be required and not granted as to the design and external appearance of the building, for the reasons given above.

Protected species

24. A Selected Protected Species Survey accompanied the application, the Report's author was also the surveyor, they are a Qualifying Member of the Chartered Institute of Ecology and Environmental Management.

³ Planning Practice Guidance 'When is permission required?' Paragraph: 105 Reference ID: 13-105-20180615

⁴ Hibbit and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin)

⁵ Structural Report Ref. MAH/klh/A050

25. Ponds in proximity to the appeal building were surveyed for the presence of Great Crested Newts (GCNs) and water samples were taken for eDNA testing. No GCNs were found in the ponds, but eDNA results were positive which indicates that GCNs were present in the pond. The Report concluded that there would be a risk GCNs would be harmed, and an offence could occur as a result of the proposed conversion works, but as it would be a low impact, this could be made lawful through obtaining a GCN Low Impact Class Licence.
26. Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) (the 2017 Regulations) concerns the granting of licences for activities relating to animals or plants. Paragraph 55(2) sets out the purposes for which a relevant licensing body may grant a licence. This includes preserving public health or public safety or other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment. Paragraph 55(9) of the 2017 Regulations goes on to specify that a relevant licensing body must not grant a licence unless it is satisfied that there is no satisfactory alternative and that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
27. As the Selected Protected Species Survey relies on obtaining a GCN Low Impact Class Licence as part of the proposed mitigation, I must consider whether it is likely that one would be obtained. In this instance, Natural England would be the licensing body, and they have not provided an indication as to whether they would grant a licence. Therefore, I will assess the scheme based on the tests above.
28. Dealing with Paragraph 55(9) first, I am satisfied that no satisfactory alternative to the proposed conversion works exists. There is also no evidence before me that indicates that the mitigation measures set out in the Selected Protected Species Survey would not maintain the favourable conservation status of GCNs. Therefore, I conclude that the proposal would comply with Paragraph 55(9).
29. Notwithstanding this, as I have found that prior approval is required and would not be granted, there would not be an imperative reason in the overriding public interest to grant a licence. Accordingly, I do not consider there is a reasonable prospect that a derogation licence would be obtained.
30. I accept if I considered that prior approval was required and granted, then there would be a reasonable prospect that a derogation licence could be obtained. In that scenario, it would be possible to attach a condition to any approval which would require a licence to be obtained prior to the commencement of works. However, that is not applicable to this circumstance.
31. I conclude that the proposal would have a harmful effect on protected species, for the reasons given above.

Other Matters

32. The appeal site is in proximity to the Grade II listed Ovenback Cottage⁶. Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, I must have special regard to the desirability of preserving the listed building and its setting. The significance of Ovenback Cottage relates to the retention of several

⁶ List entry number: 1329662

historical features dating back to the 17th Century. It has a well-defined garden area which provides the immediate setting for the property, and it is set within the wider rural landscape.

33. During my site visit, I could not observe Ovenback Cottage from the appeal site. Although I conclude that the proposed dwellinghouses would appear incongruous, given the separation between the appeal site and listed building, lack of intervisibility, and the amount of intervening development, I conclude that the proposal would preserve the setting of Ovenback Cottage.
34. The appellant has highlighted that similar agricultural buildings have been converted to dwellinghouses under Class Q in Cheshire East and has highlighted support for the proposed development under paragraphs 61 and 84 of the National Planning Policy Framework. The appellant has also advised that despite being in the countryside the appeal site is in proximity to several facilities and services to meet the day to day needs of occupiers of the proposed dwellinghouses. Nonetheless, my assessment is based upon the limitations and conditions specified within Class Q of the GPDO only. As such, these factors do not alter my assessment on the acceptability of the proposal.

Conclusion

35. For the reasons given above the appeal should be dismissed, prior approval is required and is not granted.

J Hobbs

INSPECTOR