



Appeal Decision

Site visit made on 10 February 2023

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2023

Appeal Ref: APP/C1570/W/22/3301836

Park Farm, Church Road, Chrishall SG8 8QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 & Mrs Wilson of Andrew Frostick Associates Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/22/0186/PAQ3, dated 18 January 2022, was refused by notice dated 16 March 2022.
 - The development proposed is described as: See drawings for specific design information. I can confirm that the scheme includes for sufficient natural light and ventilation in excess of minimum requirements under the Building Regulations.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the banner heading above is taken from the application form. The Council's decision notice and appellant's appeal form refer to the proposal as 'Prior Notification of change of use of agricultural building to 1 no. dwelling', which more accurately reflects the proposal and I have considered the appeal on this basis.
3. 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 GPDO), consent is granted for the change of use of agricultural buildings and any land within their curtilage to a use falling within C3 (dwellinghouses), subject to limitations and conditions. Since the application was refused, the Council stated a further reason the proposal would not be permitted development, in respect of the building curtilage defined by the appellant's plans. I have given the appellant the opportunity to respond to this matter and taken this into account in determining this appeal.

Main Issue

4. The main issue is whether or not the proposal is permitted development under Schedule 2, Part 3, Class Q of the GPDO.

Reasons

5. Under Schedule 2, Part 3, Class Q, development is not permitted by Q.1 d)i) if a development together with any previous development under Class Q would result in larger dwellinghouses having more than 465 square metres (sqm) of floor space having a use within Class C3 (dwellinghouses). A previously agricultural building on the unit was converted to a dwellinghouse¹ under Class Q. The appellant informs me it created a floor area of 120 sqm, whereas the Council is of the view it created 105.8 sqm.
6. Article 2(1) of the GPDO 2015 provides that, for the purposes of the GPDO, 'floor space' means the total floor space in a 'building'. It defines building as including any structure and erection, including any part of a building. The covered terrace, entrances, passages and recessed areas are under the roof and so in and part of a building, not outside of it. The plans show spaces would be linked to other areas of the dwelling by doors and glazed screens.
7. The RICS Code of measuring practice (2015)² (CoMP) is a guidance note aimed at providing precise definitions to aid the accurate measurement of buildings and land, the calculation of sizes and the description or specification of land and buildings on a common and consistent basis. It highlights this may be required for planning purposes³. It prescribes that space under canopies, open-sided balconies and covered ways are excluded from the definitions of Gross Internal and External Area. Were this principle to be applied the appellant calculates 337sqm of floorspace would be created.
8. While a useful guide for measurements, the CoMP is guidance only. The terms Gross Internal and External Area are not the same specific terms as 'floor space' and 'building' set out in and to be applied when interpreting the GPDO. Were I to apply the CoMP as sought by the appellant, it would be in conflict with the legal definitions set out by the GPDO and caselaw. Therefore, in relation to the covered areas for this scheme, the correct approach is to calculate the conversion in accordance with the GPDO.
9. The *Mansell v Tonbridge and Malling BC* judgement⁴ highlights that the floor space restriction is a restriction on the change of use and not the size of the building in which that change occurs. So I see no reason it is not possible for a larger building to be part utilised for a residential conversion under Class Q. The appellants' view is that some of the space under the roof is not to be a residential use, but also does not have to remain in an agricultural use.
10. In the appeal scheme the space in question is not separated, and some spaces either must or could be used to access other parts of the dwelling. Even if I were to exclude some of the narrow undercover areas, one part of the space is used to access the front is labelled as a covered terrace around the front door entrance and is to be surrounded by a folding glazed screen. The space outside the boot room is labelled as entrance to Part M and Box Seat. Along part of the side elevation, there is a recessed area that is to be part surrounded by folding glazed screen doors that would give access between the curtilage and the living area.

¹ Permission Ref UTT/15/1731/PAPQ3.

² Royal Institute of Chartered Surveyors Code of measuring practice 6th Edition (May 2015).

³ Page 1, *ibid*.

⁴ *Mansell v Tonbridge and Malling BC & others* [2017] EWCA Civ 1314.

11. Given their position, relationship with other living spaces and their function, such spaces identified are part of the conversion to a residential use. Therefore, even if I were to accept the appellants' view that areas around the building need not remain in agricultural use, there are areas that should be included in the calculation under Class Q. Even applying the lower floor area calculations of both schemes I have been provided with, based upon the evidence before me, in total, development under Class Q would exceed the threshold in Q.1 d)i), and it is not demonstrated to the contrary.
12. The Council concluded the proposal does not meet Q.1 a) of Class Q in respect of solely being used for an agricultural use at the relevant time in (i) – (iii). This is because there were what is referred to as non-agricultural items shown in part of the barn on photographs in the Ecological Survey and Assessment (August 2021) (the ESA) and the Planning Statement. Other items were noted on an officer site visit. The appellant has explained that from time to time on a short-term basis some non-agricultural items were stored in the barn at those times, and other items questioned are not untypical of an agricultural use.
13. Photographs in the ESA and Planning Statement appear contemporary with their production. Supporting interested party representations suggest a historic agricultural use of the barn. The substantive evidence does not lead me to doubt that on the balance of probabilities a sole agricultural use existed on 20 March 2013. On this basis (i) would be met. At my visit the barn was solely in agricultural use, so I cannot identify a conflict with (ii). It is suggested the agricultural use commenced before 20 March 2013, therefore (iii) is not applicable. The Council has not adequately justified why there is any reasonable doubt the building would fail to meet Q.1) a). However, this does not overcome the proposal not meeting the requirements of Q.1 d)i).
14. For the purposes of Class Q, paragraph X of Part 3 of the GPDO sets out that 'curtilage' means (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 the lesser.
15. The site Location Plan shows an area edged in red as the proposed site boundary and the indicative layout of it is set out on the Proposed Block Plan. The land edged red includes the access to the public highway, access tracks/roads, and land used for the stationing of a mobile home. On the Proposed Block Plan the accesses, tracks, a parking space and various unidentified areas are indicated. Based upon the plans submitted, the proposal is significantly over the limitation, so would not meet paragraph X of Part 3.
16. There are no other plans submitted as part of the proposal that would give me sufficient grounds to reasonably establish any smaller curtilage area. It might be possible that a smaller curtilage could reasonably be established, however, even if this were the case, it might result in a significant and material change to the proposal under consideration in this appeal, and moreover, it would not in any event overcome the conflict with Q.1 d)i).
17. Where the developer has provided insufficient information to establish whether the development complies with any conditions, limitations or restrictions in Part 3, under paragraph W(3) of the GPDO an application may be refused. For the reasons set out above, the proposal would result in residential developments

under Class Q that would exceed the floorspace limitations under paragraph Q.1 d)i) of the GPDO and the curtilage does not comply with the limitation under paragraph X. Therefore, the proposal falls outside the scope of permitted development Class Q of Part 3 of Schedule 2 of the GPDO.

Other Matters

18. I have noted the comments in representations to the appeal and taken these into account insofar as they are of relevance to making a determination as required under Class Q. However, many matters raised such as the broad support for the appellants and the proposal, local housing needs, local affordability, association with the village, social and economic benefits, and intended biodiversity gains, are not determinative as to whether a proposal is permitted development under Class Q.
19. The Council does not indicate prior approval is required for the matters listed in Q.2 (a) – (g) of Class Q. Based upon the evidence before me I see no reason to find to the contrary. However, given my findings above, it does not alter the outcome of the appeal.

Conclusion

20. For the reasons given, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO and the appeal should be dismissed. Therefore, the appeal does not succeed.

Dan Szymanski

INSPECTOR