



Appeal Decision

Site visit made on 19 March 2025

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2025

Appeal Ref: APP/U2615/W/24/3347879

Bremar Stud, Porters Loke, Burgh Castle, Norfolk NR31 9PX

- 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 & Mrs Timms & Tibble against the decision of Great Yarmouth Borough Council.
 - The application Ref is 06/24/0295/PAD.
 - The development proposed is change of use from agricultural barn to 1 no. dwelling house (Application under GPDO 2015: Schedule 2 Part 3 Class Q).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. As no description of the development has been provided on the application form, I have taken the description set out above from the decision notice and appeal form as this provides an accurate representation of the proposal.
3. Amended plans have been submitted showing alterations to the building to form a flat roof. Such plans are materially different to those considered by the Council which showed the retention of the existing pitched roof.
4. The 'Procedural Guide to Planning Appeals – England' is clear that the appeal process should not be used to evolve a scheme and that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority. Consequently, in the interests of fairness, I have not had regard to the amended plan and have determined the appeal based only on the plans that were before the Council when it made its decision.
5. Changes to the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) came into effect on 21 May 2024, with transitional arrangements set out under Article 10 of the amending order¹. I am aware that the period for the consultations required under paragraph W did not expire until 24 May 2024. Nonetheless, I find nothing in the wording of the transitional arrangements which suggests that the proposal, which was submitted prior to 21 May 2024, should not be determined in accordance with the provisions of Class Q in place at the time of submission (the 'old' GPDO). Even though the Council has considered the proposal under the 'new' GPDO, I have had regard to its case insofar as it is relevant to the provisions of the 'old' GPDO.

¹ The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024 Statutory Instrument No. 579

6. Schedule 2, Part 3, Class Q of the GPDO permits development consisting of a) a change of use of an agricultural building and any land within its curtilage from a use as an agricultural building to a use as a dwellinghouse, and b) building operations reasonably necessary to convert the building. Schedule 2, Part 3, paragraph X sets out what curtilage means for the purposes of Class Q.
7. Class Q.1 of the GPDO sets out circumstances where such development is not permitted. Furthermore, Article 3(9A) of the GPDO provides that Schedule 2 does not permit any new dwellinghouse where the gross internal floorspace (GIA) is less than 37 square metres does not comply with the nationally described space standard².
8. Paragraph Q.2(1) indicates that development is permitted under Class Q subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether its prior approval will be required as to several considerations. These include Q.2(1)(a), the transport and highways impacts of the development and Q.2(1)(e), whether the location or siting of the building makes it otherwise impractical or undesirable for it to change from an agricultural use to a dwelling.
9. The Council considers that the proposal is not permitted development as it does not accord with the NDSS in respect of the floor to ceiling height, and that the size of the curtilage exceeds what is permissible. Additionally, it considers that a suitable access would not be achieved, and it has not been demonstrated whether or not there would be any adverse impacts upon ecology.

Main Issues

10. Therefore, the main issues are:

- whether or not the proposal would comply with the conditions and limitations applicable to development permitted under Schedule 2, Part 3, Class Q of the GPDO with particular regard to the nationally described space standards and the size of the proposed curtilage; and if so
- whether or not prior approval would be required and should be granted having regard to transport and highways; and
- whether or not prior approval would be required and should be granted having regard to whether the location or siting of the building makes it otherwise impractical or undesirable to be used as a dwellinghouse, with particular regard to protected species and their habitats.

Reasons

Nationally described space standards (NDSS)

11. The NDSS requires, amongst other requirements, that the minimum floor to ceiling height is 2.3 metres (m) for at least 75% of the GIA. The Council indicates that the internal height of the building at the ridge, and therefore at its highest, measures 2.24m. This is not disputed by the appellants and there is nothing before me to suggest this is incorrect. Accordingly, a ceiling height of 2.3m could not be

² The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2020 Statutory Instrument No. 1243

achieved in any part of the proposed dwelling. It is therefore apparent that the floor to ceiling height requirements of the NDSS would not be achieved. Consequently, whilst the proposed dwellinghouse would have a GIA exceeding 37 square metres (sqm), it would not meet the requirements of Part 3 of the GPDO given the provisions of Article 3(9A) of the GPDO.

Curtilage

12. For the purposes of Class Q, paragraph X of Part 2 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.
13. The appellant indicates that the proposed curtilage measures 85.15sqm when the access is excluded. The Council, considering the entire red edge curtilage including the access and the building footprint, indicates that the area would measure 295sqm.
14. Whilst there is no authoritative definition of the term 'curtilage' it is generally found to be land around a building not including the land upon which it is sited. I therefore find that it is reasonable to exclude the building footprint from the calculation of the curtilage area. In addition, as the access would not be solely used for the proposed dwelling and its curtilage, and would continue to serve the remainder of the field, I find that it would also be appropriate to exclude the access from the calculation.
15. It is apparent from the submitted drawing that what remains of the land within the red edge is no greater than the area occupied by the appeal building, and my observations on site did not suggest otherwise. The proposed curtilage, therefore, is in accordance with the definition set out at paragraph X of Part 3 of the GPDO. Nonetheless, it remains that the proposal would not comply with the conditions and limitations applicable to development permitted under Schedule 2, Part 3, Class Q of the GPDO due to non-compliance with the NDSS.

Other Matters

16. As I have concluded that the proposal would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether prior approval would be required as this would not alter the outcome of the appeal.
17. The Council has raised concerns regarding ecology. Whilst it is acknowledged that protected species are not specifically referred to in the GPDO, paragraph Q.2(1)(e) does require consideration of whether the location or siting of a building makes it otherwise impractical or undesirable to create a dwellinghouse. Additionally, the decision maker has a general legislative duty to consider whether protected species may be affected by development. Nevertheless, as I have concluded that the development is not permitted under Class Q, it is not necessary for me to consider the impact of the proposal on protected species or ecology.
18. The application site is located within the Orange 400m to 2.5 kilometre Indicative Habitat Impact Zone of a designated, internationally protected site. However, as I

am dismissing for other reasons, and noting the appellants' willingness to make a financial contribution toward mitigation, I do not need to consider this further.

Conclusion

19. For the reasons given above, I conclude that the proposed development is not permitted development under Schedule 3, Part 3, Class Q of the GPDO and that the appeal should be dismissed.

Elaine Moulton

INSPECTOR