



Appeal Decision

Site visit made on 19 May 2025

by **A Hickey MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 June 2025

Appeal Ref: APP/J1535/W/24/3356461

Disused Chicken Sheds and surrounding land, Nazeing, Lower Nazeing, Epping Forest EN9 2EU

- 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 Luke Brown against the decision of Epping Forest District Council.
 - The application Ref is EPF/1495/24.
 - The development proposed is application for prior approval in accordance with Town and Country Planning (General Permitted Development) (England) Order 2015, Class Q, Part 3 Schedule 2.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I am also the Inspector appointed to determine an appeal for planning permission¹ at the same site. However, the appeal type and procedures are different therefore I have considered them independently with a separate decision for each.
3. I have taken the description of the proposed works from the application form albeit removed superfluous wording related to the planning statement. I have taken the site address from the appeal form as this more accurately describes the appeal site location.
4. The appeal proposal relates to a prior approval notification made under Article 3(1), Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). Development plan policies and the National Planning Policy Framework ('the Framework') can be considered relevant to prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.
5. Part 3, Class Q of the GPDO firstly requires a determination as to whether the proposal constitutes permitted development in accordance with Paragraph Q.1.(a) to (p). The Council contends the development is not permitted development under Paragraph Q.1, (p). In the event development is permitted, Paragraph Q.2 sets out a number of conditions. Condition Q.2.(1) requires that 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 a number of prior approval matters set out in

¹ Appeal ref: APP/J1535/W/24/3354909

sub-sections (a) to (g). The Council refused to grant prior approval for exceptions (b) and (e).

Main Issues

6. Based on the above, I find the main issues in this appeal are:

- whether the proposal would be permitted development for the purposes of the GPDO having regard to whether the building has suitable existing access to a public highway; and
- if found to be permitted development, whether or not the noise impacts would be acceptable so as to comply with Paragraph Q.2.(1)(b) of the GPDO; and
- whether the location or siting of the building makes it otherwise impractical or undesirable to change from agricultural use to a use falling within Class C3 (dwellinghouses).

Reasons

7. Schedule 2, Part 3, Class Q.1 (p) of the GPDO sets out that development is not permitted if the building does not have suitable existing access to a public highway. I acknowledge that the Council's Highways and Transportation Department has no formal objection. However, the evidence presented by the Council, which the appellant does not dispute, indicates that this is due to the classification of Paynes Lane, which adjoins the access track to the appeal building being a private road. It is therefore a matter of planning judgment as to whether a suitable existing access serves the appeal building.
8. The Council advises that the access track to serve the appeal building is approximately 200 metres or more. Again, this is not disputed by the appellant and based on my observations on site I see no reason to disagree.
9. The access track is shared with a presently fire-damaged building containing farm and excavation equipment. From my observations, the access track did not include any passing bays along its route and was not particularly wide, making it difficult for two vehicles to pass each other easily or at all. Additionally, it was unlit without a dedicated footway. Therefore, I find that the narrowness and length of the access lane, lack of existing passing bays along the route without lighting or a dedicated footway, means that the proposal does not have suitable existing access to a public highway, even if presently used by some vehicles.
10. Q.1 (p) requires the building to have suitable existing access to a public highway. As such, it would not be appropriate to condition matters related to the access changes in the future. My attention has also been drawn to a scheme on the same site that was not refused on highway grounds due to width, length, and condition. Nonetheless, I have determined this appeal on its own merits and found that a suitable existing access does not exist for the purposes of Schedule 2, Part 3, Class Q.1 (p)
11. For the above reasons, the building does not have suitable existing access to a public highway. As such it would fail to comply with paragraph Q.1(p) of the GPDO and would not benefit from the permitted development rights under Schedule 2, Part 3, Class Q of the Order.

12. As the prior notification process is not applicable, no further assessment against Schedule 2, Part 3, Class Q(b) and (e) of the GDPO is undertaken and a potential lack of harm in relation to further matters or objection from consultees would not alter my conclusion in relation to the first main issue.

Other Matters

13. Other matters raised in relation to the above-mentioned appeal on the same site would also not alter my conclusion in relation to the first main issue, which is determinative in this appeal.

Conclusion

14. For the reasons set out above, I conclude that the proposal would not comply with the permitted development right under Class Q. The appeal should not therefore succeed.

A Hickey

INSPECTOR