



Appeal Decision

Site visit made on 4 June 2025

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2025

Appeal Ref: APP/X2410/W/25/3359262

Elms Farm Barn, Cotes Road, Barrow Upon Soar, Leicestershire LE12 8JT

- 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) (GPDO).
 - The appeal is made by Fiona Parker against the decision of Charnwood Borough Council.
 - The application Ref is P/24/0902/2.
 - The development proposed is change of use of building to dwellinghouse (Use Class C3) and associated operational works.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of building to dwellinghouse (Use Class C3) and associated operational works at Elms Farm Barn, Cotes Road, Barrow Upon Soar, Leicestershire LE12 8JT in accordance with the terms of the application, Ref P/24/0902/2, and the details submitted with it including drawing nos 0392-A-PL-001 Rev. A; 0392-A-PL-100 Rev. A; 0392-A-EL-002 Rev. A; and 0392-A-PL-200 Rev. C and subject to the following condition:
 - 1) The development hereby permitted shall not be occupied until the two vehicle parking spaces have been provided in accordance with drawing no 0392-A-PL-001 Rev. A. Thereafter those spaces shall be retained for the parking of vehicles only.

Preliminary and Procedural Matters

2. On 21 May 2024, Statutory Instrument 2024 No 579 (SI) came into force amending Article 3(1), Schedule 2, Part 3, Class Q of the GPDO. Transitional arrangements apply to applications submitted under previous iterations of the Order which was the case in this instance, and this allows for cases to be considered under the previous version. However, the appellant has requested that the proposal be assessed under the new SI, which the Council also considered in its Officer's Report. Consequently, both parties have had the opportunity to comment on the updated version of the SI and as such I have not invited further comments from the main parties. All references to the GPDO in this decision therefore relate to the version that is now in force.
3. The description of development on the application form was 'Please refer to the accompanying Supporting Statement' which is wholly unclear. During the consideration of the application the Council revised the description of

development. The appellant states that they were content with the description of development at the time but given that the scheme has been considered with regard to the latest version of the SI the reference to Class Q (b), which now relates to the extension of the building and has not been applied for in this instance, is no longer relevant and the reference is therefore wholly unclear. Consequently, in the interests of clarity and certainty I have removed the first part of the description of development which referred to Class Q from the description of development and retained the secondary part of the description of development, which described the act of development, in the banner heading and my formal decision. Given that this retains the wording used by the main parties, I am satisfied that they would not be prejudiced by this approach.

4. Class Q(a) of the GPDO permits development consisting of a change of use of a building that is part of an established agricultural unit and any land within that building's curtilage, and under Class Q(c), building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses). This is subject to certain criteria, and circumstances where development is not permitted which are listed under Paragraph Q1.

Main Issues

5. The main issues relevant to this appeal are:
 - whether the proposal would constitute permitted development as defined under Schedule 2, Part 3, Class Q of the GPDO; and
 - if the proposal is found to constitute permitted development, whether it would accord with the conditions of Schedule 2, Part 3, Class Q of the GPDO.

Reasons

Whether Permitted Development

6. Paragraph Q.(a)i) of the GPDO permits development consisting of a change of use of a building that is part of an established agricultural unit and any land within the building's curtilage. Paragraph Q1.(a)i) establishes that development is not permitted by Class Q if in the case of a site that is part of an established agricultural unit, the site was not part of the established agricultural unit on 24 July 2023.
7. A Certificate of Lawfulness¹ was issued following the determination of the application and this confirmed that the building was constructed more than four years before the date of the application and is therefore lawful development and the use of the building and the remainder of the property for agricultural purposes.
8. While land owned by the appellant may have been used for other purposes, I am concerned with the appeal building and any land within its curtilage and whether it has been used as part of an established agricultural unit. A signed Statutory Declaration has been submitted by a farmer who confirms that they have been using the appeal building and the land within its curtilage as part of their established agricultural enterprise since around 2010. Alongside this, a plan has been provided showing the land that is farmed which includes the building and its

¹ Application Reference: KH/LM/20969

curtilage alongside land owned by the appellant. Given that the statutory declaration was prepared in relation to the application for the Certificate of Lawfulness for the building and land within the appellant's ownership it is not unreasonable that the plan only included that land. Another plan also shows the extent of the wider agricultural unit including land outside of the appellant's ownership. While the ownership of the appeal site did change, the farmer stated that the building was used continuously for the storage of feed for grazing livestock and agricultural machinery and vehicles used to farm the fields.

9. While the Council has provided evidence that equestrian activity may be taking place on land owned by the appellant, it is not evident that this is occurring across the entirety of the land identified in the Statutory Declaration or specifically the appeal building or any land within its curtilage. The appellant states that much of the equestrian activity is taking place on land associated with the existing dwelling on the wider site. The Statutory Declaration does have limited financial and agricultural output information. However, it was made in accordance with the provisions of the Statutory Declarations Act 1835 and there is no substantiated reasoning before me to not give substantial weight to the evidence provided.
10. I note that an application has been submitted to change the use of land to equestrian use², but this includes land outside of the appeal site. As far as I have been made aware the Council has not granted permission for this application. Even if part of the land owned by the appellant has been used for other purposes, there is no substantive evidence before me that the appeal building or land within its curtilage has been used for non-agricultural purposes.
11. The Statutory Declaration is dated 25 November 2024 and whilst there does not appear to be a formal agreement between the farmer and the appellant concerning the use of the barn and land, the Statutory Declaration provides evidence that, on the balance of probability, the appeal building and any land within its curtilage, was used as part of an established agricultural unit on 24 July 2023.
12. It is not disputed between the parties that the proposal would comply with the other paragraphs set out in paragraph Q1 of Schedule 2, Part 3 and based on the information before me I find no reason to conclude otherwise. Consequently, the proposal would constitute permitted development under Class Q(a) together with development under Class Q(c) of the GPDO.

Prior Approval

13. Where the proposed development would be permitted development under Class Q(a) together with development under Class Q(c) development is permitted subject to the condition that before beginning development, the developer must apply to the local planning authority for a determination as to whether prior approval will be required on a number of matters set out in paragraph Q2.(1) which are considered below.
14. Whilst the Council did not consider the proposal to be permitted development it nonetheless carried out an assessment of the prior approval matters set out in paragraph Q2.(1). It determined that the transport and highways impacts of the development would be acceptable. The Local Highway Authority did not object to the application, subject to a condition requiring the two parking spaces shown on

² Application Reference: P/24/1490/2

drawing no 0392-A-PL-001 Rev. A are made available prior to occupation. Based on the information before me I find no reason to conclude otherwise.

15. The noise impacts of the development, contamination and flood risks on site, whether the location of the building makes it otherwise impractical to change from agricultural use to a use falling within Class C3, the design or external appearance of the building and the provision of adequate natural light in all habitable rooms of the dwellinghouses were also deemed to be acceptable. Based on the information before me I find no reason to reach a different conclusion on these matters.
16. Therefore, for the reasons given above, and subject to a suitably worded condition, none of the matters set out in paragraph Q2. (1)(a) to (g) in the context of this appeal indicate that prior approval should be withheld.

Conditions

17. I have had regard to the condition put forward by the Council and have amended the wording where necessary in the interest of clarity. I have also had regard to the tests in the National Planning Policy Framework and relevant elements of the Planning Practice Guidance.
18. Paragraph W.(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. As such a condition requiring this is not necessary. Given I have listed the submitted plans in my formal decision above and paragraph W(12) of Schedule 2, Part 3 of the GPDO requires the development to be carried out in accordance with the details submitted, the Council's suggested plans condition is unnecessary. A condition requiring the two parking spaces shown on the approved plans be made available prior to use is necessary in the interests of highway safety which is related to the subject matter of the prior approval.
19. Paragraph Q2.(4) of the GPDO stipulates that development under Class Q is permitted subject to the condition that development must be completed within a period of 3 years starting with the prior approval date.

Conclusion

20. For the reasons given above, I conclude that the appeal should be allowed, and prior approval should be granted.

G Sibley

INSPECTOR