



Appeal Decision

Site visit made on 10 December 2025

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th January 2026

Appeal Ref: APP/Z3825/W/25/3374401

Annies Baskets, Henfield Road, Albourne, Hassocks BN6 9JJ

- 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 and Mrs P Smith against the decision of Horsham District Council.
 - The application Ref is DC/25/1240.
 - The development proposed is described as “prior notification for change of use of an agricultural building to 1no. dwellinghouse (C3 Use Class)”.
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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) (GPDO) for change of use of an agricultural building to 1no. dwellinghouse (C3 Use Class) at Annies Baskets, Henfield Road, Albourne, Hassocks BN6 9JJ in accordance with the application DC/25/1240 and the details submitted with it, including Drawing Nos 3 (Proposed Site Plan) and 4 (Elevations and Floor Plan), and subject to the conditions set out in the Schedule to this decision.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO, planning permission is granted for 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 to a use falling within Class C3 (dwellinghouses) together with building operations reasonably necessary to convert or extend the building. Limitations to the development permitted under Class Q are set out in GPDO paragraph Q1.
3. As the appellant did not complete an application form, I have taken the address from the appellant’s planning appeal form. I have omitted surplus information from the description of development, as follows: “Change of use of an agricultural building to 1no. dwellinghouse (C3 Use Class)”.

Main Issues

4. The Council refused prior approval on the basis that the development would be contrary to a condition attached to permissions DC/06/0520 and DC/18/2357 which restricted the use of the building to agricultural purposes only. It considered that as a result the proposal did not constitute permitted development.
5. The Council further considered that the building’s location and siting made it undesirable to be used as a dwelling because of the potential for future occupiers

to be adversely impacted by noise and disturbance associated with agricultural activities; and that the building's curtilage was larger than the building itself and thus exceeded the limitation imposed by the GPDO.

6. Consequently, the main issue in this appeal is whether the proposal constitutes permitted development; and, if it does, whether it would be granted planning permission by Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO, with particular reference to the limitations at paragraphs Q2(1)(e) and Q3(1).

Reasons

Whether the proposal constitutes permitted development

7. The GPDO grants planning permission for various classes of development, subject to the limitation at paragraph 3(4) that "Nothing in this Order permits development contrary to any condition imposed by a planning permission granted or deemed to be granted under Part 3 or Part 13 of the Act otherwise than by this Order". Local planning authorities have the ability, when granting planning permission, to remove "permitted development" rights for specific categories of development such that, notwithstanding the GPDO's provisions, planning permission must be obtained from the local planning authority.
8. Subsequent case law has confirmed the right of local planning authorities to impose conditions to exclude the operation of the GPDO, provided the wording of such conditions is clear and unequivocal¹. In broad terms, conditions should indicate which use(s) are acceptable, explicitly exclude other uses, and confirm that express consent must be obtained from the local planning authority to change the use. The interpretation of such conditions is an objective exercise which must have regard to the natural and ordinary meaning of the relevant words, the overall purpose of the consent, and common sense².
9. The condition attached to permissions DC/06/0520 and DC/18/2357 stated: "The buildings hereby permitted shall be used for agricultural purposes only, as defined in Section 336(1) of the Town and Country Planning Act 1990". It clearly defined the use to which the building could be put and explicitly limited the use to only this. However, the condition did not explain that express consent needed to be obtained from the local planning authority for uses other than agriculture. As the original permission was granted in 2006, eight years before Class Q permitted development rights were introduced, the condition could not have removed such rights.
10. The Council has argued that by reimposing the condition in 2019, when permission was granted to remove a different condition from the original permission, the condition encompassed the removal of Class Q permitted development rights, which were by then in existence. However, the Council did not amend the condition to refer to Class Q rights or to confirm that express consent was required for a change of use to a dwelling. The condition remained as it had been worded prior to Class Q rights coming into existence.
11. Since it did not refer to the GPDO or state that express consent must be obtained from the local planning authority to change the use, the wording of the condition

¹ Dunoon Developments v Poole BC [1992] JPL 936, Royal London Mutual Insurance Society Ltd v SSCLG [2013] EWHC 3597, Dunnett Investments Ltd v SSCLG [2017] EWCA Civ 192.

² Trump International Golf Club Scotland Limited v Scottish Ministers [2015] UKSC 74; [2016] 1 WLR 85.

was not clear and unequivocal, and would not therefore prevent the use of Class Q permitted development rights.

12. Consequently, the proposal is not precluded by paragraph 3(4) of the GPDO. I therefore find that the proposal constitutes permitted development.

Noise and disturbance

13. The building is sited next to a number of buildings and glasshouses which were used until recently for horticultural purposes. It is located adjacent to the site's main access and the yard serving the buildings. Next to the yard and buildings is an existing dwelling.
14. Whilst currently not in use, the yard and buildings could be used for horticultural or agricultural purposes in the future, which would involve activity and therefore a degree of noise and disturbance. Whilst there is already a house next to the yard and buildings, it is occupied by the former operators of the horticultural business, who would have had the ability to control the activities of the business to ensure appropriate living conditions.
15. However, there is nothing to indicate that the site would generate noise beyond that which would typically be associated with an agricultural or horticultural use, and no evidence has been presented to indicate a potential level of disturbance that would be harmful to future living conditions. Moreover, the existence of Class Q permitted development rights indicates that there is a degree of compatibility between residential and agricultural/horticultural uses.
16. I have noted the appeal decision at Moor Farm³ in which an Inspector concluded that, although future occupiers could potentially be affected by farming activities, it would not render the siting and location of the proposal impractical and undesirable for the purposes of Class Q. Whilst the circumstances in that case differed in some respects, I have afforded it moderate weight.
17. I conclude that noise and disturbance associated with agricultural activities would not adversely impact on the living conditions of future occupiers, and consequently the location and siting of the building do not make it undesirable for it to change from agricultural use to a dwellinghouse. The proposal accords with paragraph Q2(1)(e) of the GPDO.

Size of the curtilage

18. Class Q rights apply to a building that is part of an established agricultural unit and any land within that building's curtilage. The GPDO defines the curtilage as an area of land immediately beside or around the building no larger than the land area occupied by that building.
19. The appellant's plans included a red line, showing an area of curtilage the same size as the building. The red line also included the entrance to the site, which the appellant advised they were required to do in order to demonstrate access to the public highway. Because the access is shared with the horticultural business and the existing dwelling, I consider that it is not within the building's curtilage. In this respect, I have had regard to the appeal at Robinsons Farm⁴, where an Inspector

³ PINS reference APP/J1860/W/24/3344968

⁴ PINS reference APP/U2370/W/24/3342103

concluded that the site access did not form part of a building's curtilage for the purposes of Class Q.

20. On the basis that the appellant's plans identified a curtilage around the building no larger than the building itself, the limitation imposed by the GPDO is not exceeded. Consequently, the proposal accords with paragraph Q3(1) of the GPDO.

Conclusion and conditions

21. Paragraph Q.2(4) of the GPDO requires that development must be completed within a period of three years from the date of this decision.
22. Paragraph W(12)(b) of the GPDO requires that the development must be carried out in accordance with the details provided in the application.
23. I have attached a condition to deal with potential contamination. In view of the fact that the building is modern and I have not been advised that contaminants have been used within it, the condition requires that appropriate action be taken in the event that contaminants are found.
24. To prevent light pollution in the countryside, I have attached a condition requiring details of external lighting to be submitted for approval.
25. For the reasons given above, I conclude that the appeal scheme falls within Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO, and the appeal should be allowed.

J Heppell

INSPECTOR

Schedule of Conditions

- 1) In the event that contaminants are found during construction, work shall cease and the following components of a scheme to deal with the risks associated with contamination of the site shall be submitted to, and approved in writing by, the local planning authority:
 - a) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.The following aspects (b) - (d) shall be dependent on the outcome of the above preliminary risk assessment (a) and may not necessarily be required.
 - b) An intrusive site investigation scheme based on (a), to provide information for a detailed risk assessment of the degree and nature of the risk posed by any contamination to all receptors that may be affected, including those off site and, unless otherwise agreed in writing by the local planning authority,
 - c) Full details of the remediation measures required and how they are to be undertaken based on the results of the intrusive site investigation (b) and an options appraisal.
 - d) A verification plan providing details of the data that will be completed in order to demonstrate that the works set out in (c) are complete, and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action where required.The scheme shall be implemented as approved, any changes to the components must be agreed with the local planning authority.
- 2) Prior to occupation, details of external lighting shall be submitted to and approved by the local planning authority. No external lighting other than that which has been approved shall be installed.

End of schedule