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# Appeal Decision

Site Visit made on 18 October 2021

**by Alexander O'Doherty LLB (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 November 2021**

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**Appeal Ref: APP/C1950/W/21/3278400**

**7 Normans Lane, Welwyn AL6 9TQ**

- 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 J Gumble against the decision of Welwyn Hatfield Council.
  - The application Ref 6/2021/0569/PN10, dated 17 February 2021, was refused by notice dated 19 April 2021.
  - The development proposed is described as, "Prior Approval Notification - Class Q: Change of use of agricultural building to a dwelling".
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development given in the planning application form is, "Please see covering letter". Therefore, the description of development provided in the banner header above has been taken from the covering letter (dated 14 February 2021). This differs from that shown on the appeal form and decision notice. The latter identifies the proposed development as, "Prior approval for a change of use from an agricultural building to a single dwellinghouse".
3. Under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO<sup>1</sup>, planning permission is granted for the conversion of agricultural buildings to dwellinghouses subject to limitations and conditions. The Council refused to grant prior approval in relation to paragraph Q.1 and paragraph Q.2(1)(e), making reference to the lawful use of the appeal building and its location and siting.

## Main Issues

4. The main issues are whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO, having particular regard to:
  - whether the appeal building benefits from a lawful use within the terms of the GPDO; and
  - whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use, with particular reference to whether

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<sup>1</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

the proposal would provide adequate living conditions for the future occupiers of the scheme, in relation to odours, disturbance, and privacy.

## **Reasons**

### *Lawful Use*

5. Planning permission<sup>2</sup> was granted in late 2008 for the retention of 2 separate stable buildings at the appeal site. This appeal relates to one of those buildings. An aerial photograph from 2010, submitted by the appellant, shows the appeal building as being a single (stand-alone) structure, set apart from the other building. This evidence contradicts that submitted in relation to an application for planning permission<sup>3</sup> made in 2019. Plans supporting the 2019 application show a larger singular building (in effect comprised of the 2 buildings joined together). In respect of the 2019 application, the appellant stated that the larger singular building was erected that way and had remained in that form ever since.
6. However that is incorrect. The appellant concedes that at some point, lean-to additions augmented the building that is the subject of this appeal. These are shown on the late 2019 photographs submitted by the Council. However, it is clear from the plans submitted in connection with the 2019 application that no openings were created between the appeal building and the lean-to structures, and that the lean-to structures merely abutted the appeal building. As such, on the balance of the evidence before me I am satisfied that the appeal building has existed since 2010, with minor works around it having occurred subsequently.
7. Turning to the usage of the building, the appellant maintains that the building was never used for stabling (although it was originally permitted as such). Paragraph X of Part 3 of Schedule 2 of the GPDO states that, amongst other things, for the purposes of Part 3, "agricultural building" means a building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business; and "agricultural use" refers to such uses. I note the evidence provided by the appellant, demonstrating purchases of feed for chickens, wheat, straw and bedding, and for pest control services relating to treatment associated with poultry mites and rats. Although this evidence demonstrates that poultry have been kept in the building, it does not show that a trade or a business has been undertaken (for example in respect of any trade or movement of livestock or turnover).
8. Therefore, based on the evidence before me and notwithstanding the convoluted planning history to the site, including the lack of any Lawful Development Certificate, I find that although the appeal building existed on 20 March 2013, it has not been demonstrated that the site was used solely for an agricultural use as part of an established agricultural unit. In this respect, the proposal conflicts with paragraph Q.1 of Class Q of Part 3 of Schedule 2 of the GPDO.

### *Living Conditions*

9. The appeal building is sited approximately 4 metres away from a building which the appellant has confirmed is used to house poultry and for storage. The

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<sup>2</sup> N6/2008/2110/FP

<sup>3</sup> 6/2019/3153/FULL

current level of activity in this regard appears to be low, and the building in question is not particularly large. It is recognised that this level of activity may change, but it has not been suggested that this would be a likely prospect in the foreseeable future.

10. Furthermore, due to the orientation of the building, the majority of the proposed openings would face the west of the site, with the proposed bi-folding doors facing a more pleasant area of the site. This would further serve to mitigate the effects of any odours emanating from the building. Moreover, the orientation of the appeal building and the level of use associated with the adjacent building means that any disturbance arising from machinery being stored in that building, and any loss of privacy arising from vehicles using the hardstanding to the side of the dwelling, would not be likely to be materially harmful.
11. Taking all of the above into account, on the evidence before me I find that the location and siting of the building does not make it otherwise impractical or undesirable for the building to change use, with particular reference to whether the proposal would provide adequate living conditions for the future occupiers of the scheme, in relation to odours, disturbance, and privacy. In this respect, the proposal complies with paragraph Q.2(1)(e) of Class Q of Part 3 of Schedule 2 of the GPDO.

### **Conclusion**

12. Although I have found that the proposal would comply with paragraph Q.2(1)(e) of Class Q of Part 3 of Schedule 2 of the GPDO, as the proposal would not comply with paragraph Q.1, prior approval cannot be given for the proposal. For the reasons given above, the appeal is dismissed.

*Alexander O'Doherty*

INSPECTOR