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## Appeal Decision

Site visit made on 29 April 2025

by **S Leonard BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 May 2025

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**Appeal Ref: APP/L1765/W/24/3351555**

**Coombs Cottage, The Crescent, Lower Upham, Hampshire SO32 1PZ**

- 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 Alan Hewlett against the decision of Winchester City Council.
- The application Ref is 24/01087/PNACOU.
- The development proposed is change of use of part of an agricultural barn to a single dwellinghouse.

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal proposal relates to a prior approval notification made under Schedule 2, Part 3, Class Q of the General Permitted Development Order (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 determined the appeal on this basis.
3. The Council made its decision on 11 July 2024. On 21 May 2024, Statutory Instrument 2024 No.579 came into force amending Schedule 2, Part 3, Class Q of the GPDO. The transitional arrangements set out in Article 10 of the Order clarify that the amendments do not apply in relation to previously permitted development under Class Q of the GPDO in respect of which an application for a determination as to prior approval is made before 21 May 2025.
4. The original application was submitted in May 2024, the appellant sought prior approval under the transitional provisions, and the Council considered the application on that basis. I have therefore determined this appeal accordingly, and all references to the GPDO within this decision relate to the version that was in force at the time of the original submission.

### Background and Main Issues

5. Schedule 2, Part 3, Class Q(a) of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses). Class Q(b) of the GPDO permits building operations reasonably necessary to convert the building.

6. The appeal relates to development under both Q(a) and Q(b), so that the proposal relates to the change of use to residential as well as associated facilitating works.
7. Where development is proposed under Class Q(a) together with Class Q(b), and the proposed works are found to be permitted development, it is subject to the condition under Paragraph Q.2(1) that before beginning the development, an application must be made to the Local Planning Authority for determination as to whether prior approval is required with regard to (a) transport and highways impacts, (b) noise impacts, (c) contamination risks, (d) flooding risks, (e) location and siting, (f) the design and external appearance and (g) the provision of adequate natural light in all habitable rooms.
8. Schedule 2, Part 3, Paragraph W of The Town and Country Planning (General Permitted Development) (England) Order 2015<sup>1</sup> (GPDO) sets out the prior approval process. It states<sup>2</sup> that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question.
9. The Council refused to grant prior approval on the basis that the proposal did not constitute development permitted under Schedule 2, Part 3, Class Q as the building was not used solely for agriculture nor formed part of an established agricultural unit on the specified dates under Class Q. The Council's second reason for refusal refers to concerns about harmful noise impacts upon the future occupiers of the proposed dwelling and the practicality and desirability of the proposed residential use taking place within the same building as an agricultural use, which are matters requiring prior approval in relation to Class Q development.
10. Accordingly, the main issues are:
  - Whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO, with particular regard to the use of the building; and, if so,
  - Whether or not prior approval would be required in accordance with the condition set out in Paragraph Q.2 (1) of the GPDO having regard to whether the noise impacts would be acceptable and whether the location or siting of the building makes it otherwise impractical or undesirable for part of the building to change from agricultural use to a dwelling.

## **Reasons**

### *Whether the proposal would be permitted development*

11. The appeal site comprises part of a larger modern steel portal framed barn. The main barn has green vertical corrugated metal clad walls under a pitched roof. There is a lower, subsidiary element with a mix of concrete block, brick and corrugated metal walls attached to the northeast side of the main barn.

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<sup>1</sup> SI 2015 No.596

<sup>2</sup> Paragraph W.(3)

12. The proposal is to undertake alterations to convert the southeast end of the building, which amounts to approximately one and a half bays of the main 5-bay structure, into a 2-bedroom, 2-storey dwelling.
13. The barn forms part of a wider parcel of land within the appellant's ownership, which includes a residential property at Coombs Cottage which lies nearby to the northeast of the barn. The barn and dwelling share a joint vehicular access from the Crescent, an unmade access track which is also a public right of way.
14. Planning permission was granted for the building, the subject of the appeal scheme, in January 2010<sup>3</sup>. The development approved was described as a "building for agricultural and domestic storage" and a condition restricted the use to "the storage of agricultural and domestic equipment incidental to the use and enjoyment of the application site". The approved drawings did not include a layout indicating the extent of the areas of agricultural and domestic storage within the building.
15. Paragraph Q.1 (a) states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit – (i) on 20 March 2013, or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use, or (iii) in the case of a site which was brought into use after 20 March 2013, for a period of at least 10 years before the date development under Class Q begins.
16. The Council considers that the relevant criteria in relation to the qualifying use for Class Q have not been met since it has not been demonstrated that the appeal site was used solely for the purposes of agriculture on 20 March 2013, notwithstanding the appellant's claim to the contrary.
17. At the time of my site inspection, the building was largely empty, aside from a small pile of hay, a large motor home and miscellaneous items stored alongside the walls of the building, including ladders, a trailer, a sit-on mower, wood and metal items. The hay was stored within the appeal site part of the barn and the motor home, comprising domestic storage, was parked outside of the appeal site.
18. The appellant states that the part of the barn which comprises the appeal site and is proposed to be converted to residential, has been and still is, used for the storage of the annual hay crop produced on the appellant's holding, and that this comprised the required agricultural use on the qualifying date.
19. It is asserted that approximately 7 acres of the appellant's grassland is cut and baled annually, thereby producing about 400 – 500 bales of hay. This, it is alleged, would amount to a volume of hay that would roughly fill the appeal site part of the barn. The appellant states that the annual hay crop is sold commercially each year to local people by means of a cash payment or in exchange for agricultural/maintenance contracting services.
20. In support of the above, the appellant has submitted 14 "statements of truth" (one of which is by the appellant, 2 are from family friends who worked for the appellant, and 11 are from long-standing family friends of the appellant).
21. These statements inform that the agricultural property comprises approximately 9 acres which has operated as a pasture farm since the appellant acquired the land

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<sup>3</sup> LPA Ref 09/02283/FUL – Granted 13 January 2010

in 2005. They also state that the application site was solely used for agricultural purposes as defined by Section 336 of the Town and Country Planning Act (the Act) as part of an established agricultural unit from 2007, specifically for hay and agricultural machinery equipment storage, and repair and maintenance.

22. The statements submitted with the appeal also assert that the statement writers have collected their pre-ordered hay bales from the barn the subject of the appeal and have accessed the barn via the southern elevation (ie the appeal site end of the barn) and that they are aware that other small liveries are supplied with hay bales on the same basis.
23. I accept that the uses of land as grazing land and meadow land are included within the definition of agriculture in Section 336(1) of the Act. However, for the purposes of this prior approval application, Paragraph X of Schedule 2, Part 3, Class Q of the GPDO defines an agricultural building as that “used for agriculture and which is so used for the purpose of a trade or business” and that agricultural use refers to such uses.
24. I am not persuaded, based on the evidence submitted by the appellant, that the building has been used for a commercial agricultural use, as required by the above. The submitted statements indicate that hay making took place on the appellant’s land, and that hay was provided to people other than the appellant.
25. However, the evidence is that the hay was supplied to a small number of family friends on a cash basis or in lieu of other services. There is no cogent evidence or supporting documentation to enable me to be reasonably certain that the scale and nature of this agricultural activity amounted to that of an agricultural trade or business use. Such evidence could include, for example, business advertising, trade accounts or business invoices.
26. Neither does the supporting information provide substantive evidence that the hay storage that did take place in the appeal site part of the barn specifically took place on the qualifying date, and, having regard to the approved use of the building, which does not contain any internal dividing walls, that it was not accompanied by any domestic storage within this part of the barn.
27. In addition, the submitted statements confirm that the building in question has been used solely for agriculture since 2007. However, the site planning history and the photographic evidence before me confirm that only the framework of the building was in place at the time of the planning application in 2009, thereby contradicting this part of the submitted statements.
28. Moreover, on the occasions of my recent site visit and that of the Council’s Planning Officer in June 2024, there was no evidence of hay storage of the appellant’s contended scale taking place in the barn nor of any obvious agricultural activity taking place on the appellant’s land at the time.
29. I accept that there may reasonably be periods during which no hay is stored in the building due to that season’s crop having been sold and the barn being readied for the receipt of the next crop. However, no specific supporting details have been provided to illustrate the precise pattern of agricultural storage within the building over the year. Nor has any historic photographic evidence been provided to show the appeal site in use in the manner stated by the appellant.

30. Based on the permission sought and subsequently granted, the barn was clearly originally intended to be used for both agricultural and domestic storage from the outset, and the parking of a large motor home within the building is evidence that a large part of the building has been used for domestic storage on occasions.
31. Moreover, notwithstanding that the motor home was parked outside the appeal site at the time of my visit, a lack of internal partitioning of the appeal site from the rest of the barn and a shared entrance into both parts of the building means that it would, reasonably, be easy and convenient for domestic storage to occur within the appeal site part of the building, alongside any agricultural storage that might also take place there.
32. With all the above in mind, I find that the appellant's supporting evidence is not sufficiently precise and robust to allow me to conclude that the use requirements of Paragraph Q.1 (a) have been met.

*Prior approval*

33. Given my conclusion that the proposal would not be development permitted under Class Q of the GPDO, there is no need for me to consider whether or not prior approval would be required, as it would not alter the outcome of the appeal.

**Conclusion**

34. For the reasons given above, and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class Q of the GPDO. Consequently, it is development for which an application for planning permission would be required.
35. The appeal is, therefore, dismissed

*S Leonard*

INSPECTOR