
Appeal Decision

Hearing held on 15 October 2025

Site visit made on 15 October 2025

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2025

Appeal Ref: APP/H4505/W/25/3363090

Land to the south of Spa Well Road, Winlaton NE21 6JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) (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 G Barnett against the decision of Gateshead Metropolitan Borough Council.
 - The application reference is DC/24/00749/CDPA.
 - The development proposed is Notification of prior approval for change of use of agricultural building to 1no. residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 21 May 2024, the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2024/579 came into force, which made changes to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, (the GPDO). Transitional arrangements were set out under Article 10 of the amending Order. Where development is permitted by Class Q immediately before 21 May 2024, but not on or after that date, the developer may make a prior approval application in relation to the previously permitted development under Class Q until the end of 20 May 2025.
3. The application form accompanying this appeal confirms that the application was made with the intention to use the permitted development right as it stood prior to 21 May 2024, and the application was made before the 20 May 2025. The Council acknowledge that in refusing to grant approval required under Article 3(1) and Schedule 2, Part 3 Class Q, of the GPDO, the incorrect version of the GPDO was referenced. I have considered the appeal against Schedule 2, Part 3, Class Q of the GPDO as it stood prior to 21 May 2024, as agreed by the main parties at the Hearing.
4. During the course of the appeal, consultation was undertaken with Natural England, given the requirements of Section 28I of the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000). The main parties were given the opportunity to comment on the consultation response provided by Natural England and so I am satisfied that no parties have been prejudiced by this course of action.

Background and Main Issues

5. Under Article 3(1) and Schedule 2, Part 3, Class Q of the GPDO, planning permission is granted for the change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within use class C3 (dwellinghouses), together with building operations reasonably necessary to convert the building to a dwellinghouse, subject to specified limitations and conditions.
6. 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 20th 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 20th March 2013, for a period of at least 10 years before the date development under Class Q begins.
7. Paragraph Q.1 (i) indicates that development is not permitted by Class Q if it would consist of building operations other than the installation or replacement of windows, doors, roofs, or exterior walls, or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse, and partial demolition to the extent reasonably necessary to carry out such works.
8. Paragraph Q.2(1) requires the developer to apply to the local planning authority to determine whether the prior approval of the authority will be required as to a number of specified matters. These are (a) transport and highways impacts of the development, (b) noise impacts of the development, (c) contamination risks on the site, (d) flooding risks on the site, (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses), (f) the design or external appearance of the building, and (g) the provision of adequate natural light in all habitable rooms of the dwellinghouses.
9. While the Council's refusal notice raised concerns only with the suitability of the access for all anticipated users, in subsequent appeal submissions, further concerns were raised in relation to a number of additional matters, including possible changes to the height of the building, noise and ecology. During the course of the appeal, the views of both main parties were also sought in relation to the status of the building subject of the appeal, as well as its structural capability for conversion and whether the work required would satisfy paragraph Q.1.
10. Therefore, the first main issue in this appeal is whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of the GPDO. More specifically, whether the site was used solely for an agricultural use as part of an established agricultural unit at the specified time, and whether the proposal would consist of building operations other than those permitted, to the extent reasonably necessary for the building to function as a dwellinghouse.
11. Only if these conditions and limitations are met, will it be necessary for me to go on and consider the disputed prior approval matters, which relate to whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwellinghouse, with particular regard to the safety of pedestrians and cyclists, road noise, and ecological interests.

Reasons

Whether in agricultural use

12. For the purposes of Part 3, a number of definitions are provided in the GPDO at paragraph X. 'Site' means the building and any land within its curtilage. 'Agricultural building' means a building used for agriculture and which is so used for the purposes of a trade or business. 'Established agricultural unit' means agricultural land occupied as a unit for the purposes of agriculture, on or before the 20th March 2013, or for ten years before the date the development begins. 'Agricultural use' is not defined in the GPDO, albeit section 336 (1) of the Act, includes examples of activities falling within 'agriculture'.
13. Also for the purposes of Part 3, paragraph W of the GPDO states that the local planning authority may refuse an application where, in the opinion of the authority, (a) the proposed development does not comply with, or (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified in this Part as being applicable to the development in question.
14. The appeal building is a relatively small, single storey building, with a utilitarian and squat appearance. Internal features include two small pens constructed from breeze block, which contained a small number of hens at the time of my visit. The building stands alone, with the exception of a small timber shed to its immediate west, where pigeons are kept. A small area of hardstanding exists to the north, with modest areas of gravel and grass to the east and south. To the west is a grassed field, which extends to the point where the site access meets the highway, gradually narrowing due to the sweep of the road. I heard that this is the only land that is, and has been directly associated with the use of the appeal building during the appellant's ownership, which dates from the 1960's.
15. The appellant's Structural Assessment¹ refers to use of the appeal building for storage, while the submitted Bat Survey and Ecological Assessment² refers to the appeal building as a workshop. However, the appellant stated at the hearing that the building is used for the keeping of hens, albeit this is now on a much smaller scale than has previously existed. Prior to the appellant's retirement in 2009, I heard that the building and the associated land was used for the keeping of up to 500 hens, for the production and sale of eggs. I was told that the eggs were sold directly from the site, to visiting members of the public. Pigs were also kept on the land, comprising 10 sows and a boar, with two litters sold off each year, albeit, the pigs were removed in the 1970's.
16. The Council points to the small size of the landholding and confirms that no agricultural activities, or associated trade or business have been observed. Although the landholding is small, this does not necessarily preclude an agricultural use of the building. The latter is unsurprising, if as the appellant suggests, any agricultural use of the land for a trade or business ceased in 2009.
17. The Council also highlights a lack of any planning history relating to an agricultural use and confirms that there are no records across the Council, which verify that a trade or business existed, including Council Tax/Business Rates, the Land Use

¹ Structural Assessment Revision B, April 2023 by Portland Consulting Engineers

² Bat Survey and Ecological Assessment, August 2024, E³ Ecology Ltd

Database and Environmental Health records. I do not find a lack of planning history to be particularly conclusive in determining whether the building has been in agricultural use for the purpose of a trade or business, particularly as the building is of some age and there is no information before me to suggest any use other than agriculture. The appellant advised that agricultural buildings are exempt from the payment of Business Rates and there is no residential property for Council Tax purposes.

18. Nevertheless, while I heard from the appellant that the appeal site was a registered small holding with MAFF³, and that it had been subject to visits by officers of the Council in relation to animal welfare in the past, there is no substantive evidence before me of this. Nor is there any substantive evidence demonstrating that any agricultural use comprised a trade or business. I appreciate that the appellant retired some years ago, but there is nothing before me to suggest that the passage of time has resulted in a lack of documentary evidence. Having considered the submissions and taking into account all that I heard on this matter, I am unable to conclude that sufficient information has been provided to establish that the appeal building was solely in agricultural use for the purpose of trade or business as part of an established agricultural unit, at the specified time. Therefore, the proposed development does not comply with paragraph Q1 (a). This finding is decisive for the appeal scheme.
19. While the Council did not question this matter at the application stage, the appellant has subsequently been afforded the opportunity to provide further submissions on this matter, and I have based my decision on the available evidence. Reference was also made on behalf of the appellant to numerous other cases of Class Q development, where the agricultural use had not been questioned. However, the circumstances of those other cases are not before me, and so I cannot be certain that they are comparable to the appeal scheme.

Extent of Building Operations

20. Notwithstanding the decisiveness of my findings above in relation to paragraph Q.1 (a), even if I had been able to find to the contrary, for the following reasons, the proposal does not meet the requirements of paragraph Q.1 (i).
21. The Planning Practice Guidance (PPG)⁴ advises that the right under Class Q 'assumes that the agricultural building is capable of functioning as a dwelling'. It goes on that 'It is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right'. What may constitute 'reasonably necessary' is not defined in either the GPDO or PPG. Whether the extent of work required would comprise of a conversion is therefore a matter of planning judgement.
22. The appeal building is a single storey, open plan building with low perimeter masonry walls with timber and metal cladding above, and internal masonry columns that support a roof composed of timber members, covered by corrugated sheeting.

³ Ministry for Agriculture, Fisheries and Food, now replaced by Department for Environment Food and Rural Affairs

⁴ Paragraph: 105 Reference ID: 13-105-20180615

23. The submitted plans show that existing masonry walls and internal columns would be retained. The appellant's Structural Assessment confirms that the external masonry wall is not tied into the external columns, and this masonry would require remedial work, including additional ties to ensure continuity between columns and walls.
24. The submitted plans indicate vertical timber cladding in a pre-weathered translucent stain, with no reference to the retention of the existing cladding. The Council referred to a mixture of cladding on site at present, indicating that their understanding of the plans was that new uniform timber cladding was proposed. The appellant accepted that the plans did not refer to the timber cladding on the proposed drawings as existing and indicated a preference for its replacement. Nevertheless, the appellant maintained that the annotated works on the proposed plans allowed for retention of the existing cladding. From these discussions, it is difficult to draw a firm conclusion as to the extent of replacement cladding proposed. Nevertheless, given the presence of metal sheeting to the north elevation, at least some timber cladding would be new.
25. The appellant's Structural Assessment also confirms that the timber rafters and purlins are in poor condition and are unlikely to meet modern design standards or building regulations, requiring strengthening. The appellant explained that this could be achieved in a number of ways, albeit the preference would be their replacement, with a new roof covering added.
26. While Class Q.1 (i) allows for building operations consisting of the installation or replacement of windows, doors, roofs or exterior walls, the available evidence suggests that in addition to the works set out above, underpinning of the foundations of the masonry walls and piers of the building would be necessary, in order to carry out the proposed development.
27. The appellant's Structural Assessment confirms that the foundations of the existing building have not been exposed and so no assessment of them has been undertaken. The structural engineer states that the existing walls and masonry columns will require underpinning, as the existing foundations are unlikely to be constructed to current standards for a dwelling, or capable of withstanding the additional loading from the proposed development. At the hearing, the appellant indicated that the need for, and extent of any underpinning was not known at this stage but acknowledged that the structural engineer did suggest that such works would be necessary. I also heard that replacement of the floor slab would be likely, given the advice of the structural engineer, who indicates that it is of unknown construction with no indication of thickness or whether reinforcement is present. Having observed the condition and significant slope of the existing floor slab on site, this appears to be the more likely course of action.
28. While the building operations permitted by Class Q (i) make no distinction between structural and non-structural works, operations involving excavating, installing or strengthening foundations are not specified in paragraph Q.1 (i). As no investigations of the existing foundations has been undertaken, such as excavating trial pits, it is not possible to ascertain the extent of these building works. Without evidence to the contrary, I am unable to conclude that these works would not be substantial, or amount to rebuilding, when considered in the context of the other building operations proposed. Consequently, I conclude that the

existing building is not already suitable for conversion to residential use and the proposal does not comply with paragraph Q.1 (i).

29. Drawing these matters together in relation to this first main issue, I conclude that the proposal would not be permitted development under Schedule 2, Part 3, Class Q of the GPDO.
30. While detailed submissions have been provided on the prior approval matters, and I heard further evidence on these matters at the Hearing, and subsequently through written representations from Natural England and both main parties specifically in relation to ecology interests, given my findings that the proposal is not permitted development, there is no need for me to go on and consider the disputed prior approval matters.

Other Matters

31. Paragraph Q.1 (h) states that development is not permitted by Class Q if it would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point. Whether the proposal would result in an increase in height was queried by the Council, based on measurements taken of the north elevation of the building on the existing and proposed plans.
32. The appellant considers any discrepancy to be a result of how the external ground level has been drawn on this elevation and provided confirmation that there would be no increase in height. The external ground level is shown to be uneven on the existing drawing, whereas it is level on the proposed drawing within an area annotated as new gravel or tarmac. If there was to be an increase in height, this would impact more than one elevation, however, none of the submissions demonstrate that this is the case. As such, I am satisfied with the appellant's explanation, and so, I have not considered this matter further.
33. While the Council also expressed concerns that external groundworks would not be permitted by Class Q, given my findings in relation to the first main issue, it is not necessary for me to go on and consider this matter further.
34. In response to paragraph's Q.1 (e) and Q.1 (h), the appellant confirmed that the appeal site has not been subject to any agricultural tenancies during his ownership and I heard no further concerns from the Council in this regard at the Hearing.

Conclusion

35. For the above reasons, I conclude that the proposal would not constitute permitted development, and the appeal should be dismissed.

S Brook

INSPECTOR

Appearances

FOR THE APPELLANT:

Ms Ellen Casson	GFW
Mr Richard Garland	GFW

Mr Barnett
Mrs Barnett
Mr Green

FOR THE LOCAL PLANNING AUTHORITY:

Mr Adam Ali	Gateshead Metropolitan Borough Council
Ms Haley Marron	Gateshead Metropolitan Borough Council
Mr Josh Kenolty	Gateshead Metropolitan Borough Council

Documents submitted at the Hearing:

Consultation response from Built and Natural Environment (Ecology), 24 October 2024