

**WELWYN HATFIELD BOROUGH COUNCIL
ASSISTANT DIRECTOR (PLANNING)**

DELEGATED APPLICATION

Application No: 6/2024/0721/PN10
Location: Chestnut Farm Woodfield Lane Hatfield AL9 6JJ
Proposal: Prior approval for a change of use from agricultural building to one dwellinghouse
Officer: Ms Elizabeth Mugova

Recommendation: Prior Approval Required and Refused

6/2024/0721/PN10 *These applications are for an assessment as to whether prior approval of those matters detailed within the legislation is required from the Council. However, other matters have been considered, but are not referred to as part of the decision letter. The contents of matters other than the prior approval considerations cannot be relied on as to the development's lawfulness. These require confirmation, if required by the developer, through the submission of an application for a Certificate of Lawful Use.*

Context	
Application Description	<p>The application seeks prior approval for a change of use from agricultural building to one dwellinghouse. The application site is located partly within and adjacent to, a Local Wildlife Site. The land is also subject to a Tree Preservation Order.</p> <p>It should be noted that since the application was submitted, there have been several changes to Class Q (agricultural buildings to dwellinghouses) of Part 3 (changes of use) of the GPDO, through the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024. However, transitional arrangements apply which allow applicants who would prefer to apply under the former Class Q regulations to do so until the end of 20 May 2025. This is to allow time for any applications for prior approval prepared under the existing right's conditions and limitations to be submitted and decided under those conditions and limitations. As this application was submitted on 18 April 2024, it has been assessed under the former version of the regulations.</p>
Relevant planning History	<p>Application Number: E6/1972/4810/ Decision: Refused Decision Date: 24 November 1972 Proposal: Retention and use of store as dwellinghouse.</p> <p>Application Number: S6/2009/0291/FP Decision: Refused Decision Date: 07 April 2009 Proposal: Erection of side extension</p> <p>Application Number: S6/2011/0416/LU Decision: Refused Decision Date: 27 April 2011</p>

	<p>Proposal: Certificate of Lawfulness for the proposed erection of two side extensions and a front extension</p> <p>Application Number: S6/2011/1855/LUP Decision: Granted Decision Date: 03 October 2011 Proposal: Certificate of lawfulness for the erection of side and front extensions</p> <p>Application Number: 6/2024/0018/LAWP Decision: Awaiting decision Decision Date: Proposal: Certificate of lawfulness for the erection of single storey side and rear extensions</p> <p>Application Number: 6/2024/0018/LAWP Decision: Granted Decision Date: 26 February 2024 Proposal: Certificate of lawfulness for the erection of single storey side and rear extensions</p> <p>Application Number: 6/2024/0021/PN27 Decision: Prior Approval Required and Granted Decision Date: 26 February 2024 Proposal: Prior approval for the construction of an additional storey to facilitate the enlargement of the dwellinghouse to a maximum of approximately 7.46m in height</p>
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The main issues are:

Whether the proposed works are permitted development by virtue of Schedule 2, Part 3, Class Q (agricultural building to dwellinghouses) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. Class Q (agricultural buildings to dwellinghouses) covers development consisting of –

- (a) 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) of the Schedule to the Use Classes Order; or**
- (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.**

	Yes / No	To be PD
<p>Was the site solely used for an agricultural use, as part of an agricultural unit -</p> <ul style="list-style-type: none"> (i) on 20th March 2013; (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 	<u>N – See below</u>	Y

(b) does the cumulative area of the building or buildings changing use under Class Q within an established agricultural unit ¹ exceed 450 square metres	N – 208sqm	N
(c) does the cumulative number of separate dwellinghouses development within an established agricultural unit exceed 3	N – 1 dwelling	N
(d) is the site occupied under an agricultural tenancy, (unless the express consent of both the landlord and tenant has been obtained)	N	N
(e) less than 1 year before the development begins – (i) has an agricultural tenancy over the site been terminated, and (ii) the termination was for the purpose of carrying out development under Class Q Unless both the landlord and tenant have agreed in writing that the land is no longer required for agricultural use (ditto above question)	N	N
(f) has development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) been carried out on the established agricultural unit— (i) since 20th March 2013; or (ii) where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins	N	N
(g) would the development result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point	N	N
(h) would the development under Class Q (together with any previous development under Class Q) result in a building or buildings having more than 450 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order	N	N
(i) Would the development under Class Q(b) consist of building operations other than- (ii) The installation or replacement of – (aa) windows, doors, roofs or exterior walls, or (bb) water, drainage, electricity, gas or other services, To the extent reasonably necessary for the building to function as a dwellinghouse, and	N	N
(iii) Partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i)	N	N
(j) is the site on article 2(3) land	N	N
(k) is the site, or forms part of—“		
(i) a site of special scientific interest	N	N
(ii) a safety hazard area	N	N
(iii) deliberately excluded	N	N
(l) the site is, or contains a scheduled monument	N	N
(m) is the building a listed building	N	N
Q.2 Development under Class Q is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—		
Discussion		
Paragraph Q.1 of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) is for a change of use from agricultural buildings to dwellinghouses and states that development is not permitted by Class Q if -		

¹ Established agricultural unit means agricultural land occupied as a unit for purposes of agriculture – on or before 20th March 2013 or for 10 years before the date the development began

(a) 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;

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. Furthermore, “established agricultural unit” means agricultural land occupied as a unit for the purposes of agriculture.

It is the wording of the limitations above that are of relevance. In this respect, it refers to permitted development not being applicable if the site was not solely used for an agricultural use under either clauses (i) or (ii).

The submitted site location plan outlines the ‘site’ for the purposes of this application and includes the building itself and a small area of land surrounding it. Any other land in the ownership of the applicant is outlined in blue. Referring to the planning history above, the submitted Planning Statement makes reference to planning application S6/2011/1855/LUP which shows the application building (Drawing Nos 581/PD2/S1 & 581/PD2/S2) as an “adjacent outbuilding/barn”. However, the red line on the referenced drawings (indicating the residential curtilage for the purposes of application S6/2011/1855/LUP for householder extensions under permitted development) includes some of the land to the south of the building in question. This suggests the land to the south was residential in 2011, at the time the decision was made. In addition, recent applications for permitted development works which were submitted in 2024 (6/2024/0021/PN27 and 6/2024/0018/LAWP) include this land on the site location plans as residential curtilage, too. Therefore, this part of the site is not considered to be agricultural as it has a residential use. In addition, the planning statement refers to the officer report for application S6/2011/1855/LUP, which describes a small courtyard of derelict agricultural outbuildings. This implies the buildings were considerably dilapidated/derelict at the time of the application in 2011 and not in an active use for agricultural purposes.

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.

The land directly to the rear of the application site which is outlined in blue on the application form is a designated Local Wildlife Site (Chestnut Meadows). The application suggests the building is currently used for agricultural storage and has been in the ownership and occupation of the family since 1987 when it operated as a smallholding with the outbuildings being used for agricultural purposes in association with the agricultural business. However, the evidence submitted with this application does not identify what agricultural trades or businesses currently operate from the site, or what the agricultural use of the land is. Therefore, the application does not clearly demonstrate that the building is being used for a trade or a business for an agricultural use, in order to confirm it is an agricultural building.

Therefore, on the evidence available, it is considered that it has not been demonstrated that the site was used solely for an agricultural use as part of an established agricultural unit, or that the site is an agricultural building at present. In this respect, the proposal conflicts with Class Q of Part 3 of Schedule 2 of the GPDO.

Prior approval

Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to a number of different matters under paragraph Q.2 (1) (a) – (g) of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The prior approval matters have been assessed below for completeness.

(a) Is prior approval of the following matters required?:

	Y/N
(a) transport and highways impacts of the development	Y
(b) noise impacts of the development	Y
(c) contamination risks in relation to the building	Y
(d) flooding risks in relation to the building,	Y
(e) Whether the location or siting of the building makes it undesirable for the building to change from an agricultural use to a C3 dwellinghouse	Y
(f) The design or external appearance of the building	Y
(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses	Y

Discussion where matters require prior approval

Transport and highways impacts of the development	<p>The application site is located north of Woodfield Lane (which is an unnumbered Classified C-road) and is accessed via an existing drive with a vehicle crossover. The new property would be accessed via the existing driveway and any additional traffic to the new dwelling created under Class Q would not significantly increase traffic flow to and from the site, due to a net increase of only one dwelling. Therefore, it is considered that there would be no significant highway implications arising from the creation of 1 new dwelling.</p> <p>Established case law and The Planning Practice Guidance (PPG) states that the permitted development rights do not apply a test in relation to sustainability of location. This is deliberate as the right recognises that many agricultural buildings will not be in village settlements and may not be able to rely on public transport for their daily needs. Instead, the local planning authority can consider whether the location and siting of the <i>building</i> (rather than the site) would make it impractical or undesirable to change the use to residential. This is discussed below.</p>
Noise impacts of the development	<p>The barn is set back in excess of 100m from the highway which is the main local source of potential noise impact on the development. The proposed residential use would not generate significant noise impacts to adversely affect the amenity of neighbouring properties, nor is it considered that any adverse effects arising to future occupiers could not be dealt with by noise conditions in the event of an approval.</p>
Contamination risks in relation to the building	<p>The proposed site may have been subject to contamination in the past. Whilst the risks from contamination inside the building are unlikely to be significant due to the modest internal works required to</p>

	<p>facilitate the development, there is also land surrounding the building. Any works to these areas, such as to create the proposed parking spaces, may result in some ground disturbance. Despite this, it is considered that in the event of an approval, it would be appropriate for ground disturbance conditions to be imposed in order to minimise the risks of contamination.</p>
<p>Flooding risks in relation to the building</p>	<p>The site is identified to be in Flood Zone 1 on the Environment Agency's online mapping system, is not within a flood plain, therefore it is not at risk from flooding.</p>
<p>Whether the location or siting of the building makes it undesirable for the building to change from an agricultural use to a C3 dwellinghouse</p>	<p>Paragraph Q.2 (1) (e) of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) requires the LPA to consider 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) of the Schedule to the Use Classes Order.</p> <p>The Planning Practice Guidance states that impractical or undesirable are not defined in the regulations, and the local planning authority should apply a reasonable ordinary dictionary meaning in making any judgment. Impractical reflects that the location and siting would "not be sensible or realistic", and undesirable reflects that it would be "harmful or objectionable. That an agricultural building is in a location where the local planning authority would not normally grant planning permission for a new dwelling is not a sufficient reason for refusing prior approval. However, the location of the building whose use would change may be undesirable if it is adjacent to other uses such as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals.</p> <p>The proposed dwelling would not be surrounded by active agricultural or commercial activities. Therefore, the proposal is not likely to have an impact on living conditions for future occupiers in terms of harmful/objectionable odour, noise and disturbance.</p>
<p>The design or external appearance of the building</p>	<p>The proposed dwelling would feature metal sheet roofing, painted masonry walls and the concrete framed windows would be replaced by painted timber windows. The proposed external materials are considered acceptable in this rural location.</p>
<p>The provision of adequate natural light in all habitable rooms of the dwellinghouses</p>	<p>The GPDO clarifies that "habitable rooms" means any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms.</p> <p>The design of the proposed conversion with new external doors and windows allows maximum levels of daylight to be provided to the deeper areas of the floor plan which is enhanced through the provision of a roof light on the inward facing roof slope.</p>
<p>Internal Space Standards</p> <p>Paragraph 9A of 3(1) "Permitted Development" states that Schedule 2 does not grant permission for, or authorise any development of, any new dwellinghouse—</p>	

(a) where the gross internal floor area is less than 37 square metres in size; or
(b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015

The MHCLG have also announced that all developments approved through prior approval will need to meet the nationally described space standards. The General Permitted Development (England) (Amendment) Regulations 2020 confirmed that this change came into effect from 6 April 2021.

The proposed dwelling would exceed the 37sqm minimum figure and the nationally described space standard for a 4-bedroom, 8-person house which is a single storey (117sqm).

Comments from Neighbour

Concerns have been raised regarding the impact of the proposal on wildlife found on the application site and that the wildlife should be protected. This is a prior approval application and the matters that are required to be assessed as part of the proposal have been discussed above which include:

- Transport and highways impacts of the development
- Noise impacts of the development
- Contamination risks in relation to the building
- Flooding risks in relation to the building
- Whether the location or siting of the building makes it undesirable for the building to change from an agricultural use to a C3 dwellinghouse
- The design or external appearance of the building
- The provision of adequate natural light in all habitable rooms of the dwellinghouses

Therefore, wildlife is not a matter that is required to assess this application. However, it is noted that part of the site is in a Local Wildlife Site and falls entirely within a Group Tree Preservation Order (TPO). Informatives regarding these aspects would be included on any approval issued, to advise the applicant to be mindful of both elements.

RECOMMENDATION

It is recommended that prior approval is refused.

Reasons for Refusal:

1. It is considered that it is not possible on the evidence presented by the applicant as part of this application to conclude that the site was used solely for an agricultural use as part of an established agricultural unit, or if the building is currently in an agricultural use as defined in the GPDO. In this respect, the proposal fails to comply with the requirements of Schedule 2, Part 3, Class Q (agricultural building to dwellinghouses) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

REFUSED DRAWING NUMBERS

2.

Plan Number	Revision Number	Details	Received Date
908.02		Existing Plans and Elevations	18 April 2024

908.03	Proposed Plans and Elevations	18 April 2024
908.lp2	Location Plan	18 April 2024
908.sp4	Site Plan Existing	18 April 2024
908.sp5	Site Plan Proposed	18 April 2024

Determined By:

Ms Emily Stainer
13 June 2024