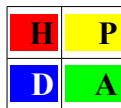


**Application to delete a condition relating to prior notice approval No.
69814 for the construction of an agricultural building at Sheep Hey
Farm, Whalley Road, Shuttleworth, Bury BL0 0EG**

Planning statement



**August 2023
Prepared by Hartley Planning and Development Associates Ltd**

Prior Notice application 69814 for an agricultural building at the above site was approved on the 22 August 2023 subject to various conditions.

Application is now made to delete condition no 2 which states as follows:-

The building hereby permitted shall be used for agricultural purposes only (as defined in Section 336(1) of the Town and Country Planning Act 1990); in conjunction with the remainder of the holding as identified in the supporting information submitted with the application. It shall be removed and the site reinstated to its original condition by a scheme to be agreed with the Local Planning Authority if at any time it ceases to be used for this purpose.

Reason: To ensure that the building is used solely for agricultural purposes connected with the working of the holding, and in accordance with Part 6 of the Town and Country (General Permitted Development Order) 2015 (as amended).

Applicant comments regarding condition no 2

1. The local planning authority (LPA) , on receiving the prior notice application, gave notice that such prior notice was required in relation to the siting, design and external appearance of the building. Therefore, and in accordance with the terms of the General Permitted Development Order 2021 (GPDO), site notices referring to the proposed development were posted, subsequent to which the application was approved subject to conditions.

2. The GPDO includes a condition relating to all such prior notice approvals which refers to the use of the building and its possible removal from the site. This differs from the condition imposed upon the approval notice and states: -

(Schedule 2, Part 6, Class A)

'A.2(v) Where development consists of works for the erection, significant extension or significant alteration of a building and—

(a) the use of the building or extension for the purposes of agriculture within the unit permanently ceases within 10 years from the date on which the development was substantially completed; and

(b) planning permission has not been granted on an application, or has not been deemed to be granted under Part 3 of the Act, for development for purposes other than agriculture, within 3 years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased, then, unless the local planning authority have otherwise agreed in writing, the building or, in the case of development consisting of an extension, the extension, must be removed from the land and the land must, so far as is practicable, be restored to its condition before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer.

(6) Where an appeal has been made, under the Act, in relation to an application for development described in sub-paragraph (5)(b), within the period described in that paragraph, that period is extended until the appeal is finally determined or withdrawn’.

3. The above condition does not need to be added specifically to any prior notice approval as it is stated in the GPDO (though there is no reason why it cannot be included as an informative) .

4. The LPA’s condition is more restrictive than that in the GPDO as it makes no allowance for any subsequent approval which might be made to use the building for any other purpose. It states that should the agricultural use cease, then the building must be removed, whereas the condition in the GPDO allows for the possibility of other uses, subject to planning approval being obtained.

5. In addition, whereas the condition in the GPDO specifies the period when the agricultural use should cease before the removal of the building must be implemented, the LPA’s condition indicates that such removal must take place if the agricultural use ceases for any length of time.

6. It is considered that the LPA’s condition no 2 does not meet the tests relating to conditions.

7. There could be a whole variety of reasons why the building might lie unused for a short period of time – illness by the farmer, disease of the animals such as foot

and mouth or “mad cow disease” requiring the building to be sterilised and left unused for such a period, or else retirement. Such changes might be of a temporary or a more permanent nature but as the current condition stands, the LPA would be able to serve a Breach of Condition Notice.

8. I have included with the submission two appeal decisions which, while referring to conditions on planning applications rather than on prior notice applications, are nevertheless instructive. The one at Northfield Road , Rossendale states: -

‘15. The PPG¹ is clear that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. There is no substantive evidence before me which demonstrates that there are considerable numbers or an accumulation of redundant agricultural buildings and former agricultural buildings in the Green Belt within the locality or elsewhere within Rossendale that have an adverse impact upon its openness or the inclusion of land within it. Consequently, there is no evidence before me which justifies that the removal of permitted development rights or restrictions upon changes of use relating to agricultural buildings would be necessary to prevent harm to the openness of the Green Belt or the other purposes of including land within it. The exceptional circumstances for such conditions, therefore, do not exist.

9. The Inspector, when determining an application for the deletion of a similar condition at Vale Lodge, also in Rossendale, came to the same conclusion.

Summary

The GPDO includes a condition specifying when an agricultural building approved under its terms, as in this case, should be removed. The LPA’s condition No 2 conflicts with it, is more restrictive in that it requires the building to be removed if it ever ceases to be used for agricultural purposes (as written, for even one day) and it removes the possibility of any other suitable use which might be approved or permitted under Schedule 2. Part 3 of the GPDO. For these reasons, and as shown

¹ PPG, Use of Conditions, Paragraph: 017 Reference ID: 21a-017-20140306 Revision date: 06 03 2014

in the two submitted appeal decisions at Northfield Road and at Vale Lodge, Rossendale, it does not meet the 6 tests for conditions.

As there is a standard condition on the GPDO applicable to prior notice approvals such as this, it is not necessary for it to be included on the face of the approval notice.

I need to add that the applicant has no intention of using the building for anything other than for agricultural purposes and it is me as his agent that is raising this matter. However, the future is not certain and the condition, if left in place, could cause difficulties in the future as there is conflict between it and the condition in the GPDO.