

DELEGATED REPORT

Report by Claire Booth	Date of report: 26/07/2024	Ref: 70894/AG
Registration: 01/07/2024	LDFC:	Expiry Date: 29/07/2024
Site Visit: 25/07/2024	Site Notice: N/A	Press Date: N/A
16:00:00		
Objections:	Con Area: N/A	Adv Type: NONE
Reason for Delay:		EIA: NA
N/A		Dec Level: DEL
		Stat Class: NREQ

Proposal: Prior notification for proposed agricultural building

Location: Shoreside Bungalow, Prestolee Road, Radcliffe, Manchester, M26 1FJ

Description

The application relates to Shoreside Bungalow and comprises a 28 horse livery stables and a Cattery. The LPA requested a plan showing the extent of the land forming agricultural unit, and showing the extent of land used in association within the equestrian livery yard. The agricultural unit extending to 13.56 hectares.

The site is accessed via Prestolee Road to the north which is accessed from Kearsley Road (A667) to the east.

The site is allocated as Green Belt within the adopted Development Plan (Bury Unitary Development Plan and the Places for Everyone Joint Development Plan).

The applicant seeks a determination as to whether the Council's prior approval is required for the construction of an agricultural building to be used as a workshop and associated store.

The proposed building however appears to be two separate buildings, albeit they propose to be attached, with one of the buildings proposed to be larger than the other. The buildings would replace two buildings, each with two stables, and remove a mobile home from the yard area located between the Bungalow and the livery yard and Cattery buildings.

The overall length of the two proposed buildings would measure 33.2m in length. The largest of the two buildings would measure 18.2m (l) x 12.1m (w). It would have an eaves height of 4.2m and a ridge height of 5.8m. It would have a pitched roof design with an eaves and ridge height of 8.5m and 10.3m respectively. The smaller of the two buildings proposes to be 16m in length, 3.8m in depth, it would have a lower eaves height of 2.5m and, with a mono-pitched roof, would have an upper eaves height of approximately 3.5m at its highest.

The external elevations of the proposal would comprise concrete panels to the lower elevations and timber Yorkshire boarding to the upper elevations. Natural grey cement fibre sheets would also be featured to the roof. The total combined floor area of the buildings would be approximately 281 sq.m.

The buildings seek to be used as an agricultural workshop and store.

They are to be sited in the yard area between the rear of Shoreside Bungalow and the buildings containing the Clattery business and horses/ livery yard.

Relevant Planning History

The site is split across to Local Authority boundaries, namely Bolton MBC and Bury MBC. The application proposals seek to be located on land located within the borough of Bury MBC.

Bury MBC Applications

55835 - A. Single storey extension to existing bungalow. B. Siting of mobile home. - Split Decision, 24/01/2013

55875 - Demolition of existing stables / tack shop / storage buildings and erection of 3no replacement buildings & sand paddock - ZZZ Special deleted application 20/12/2012

55909 - Demolition of existing stables/tack shop/storage buildings and erection of 3 no. replacement buildings and sand paddock - Withdrawn by Applicant, 30/01/2013

56029 - Demolition of existing stables/storage/shop buildings and erection of replacement stables, ancillary shop and sand paddock (Joint application with Bolton Council). - Approved with Conditions 16/04/2013

56049 - Article 16 Consultation - Demolition of existing stables, storage and shop buildings and erection of replacement stables, ancillary shop and sand paddock - Raises No Objection Subject to Condition 11/04/2013

60624 - Prior notification for proposed single storey rear extension - Prior Approval Not Required - Extension 01/11/2016

61542 - Article 18 consultation from Bolton Council (00877/17) for variation of conditions 08 and 09 on application 89471/13 (02-Substitution of proposed site plan, 08 - Original stables to be retained, 09 - Shop no longer proceeding) - Raise No Objection, 12/07/2017

63102 - Variation of condition no. 2 (approved plans) of planning permission 61423 to amend position of stables - - Approve with Conditions, 20/09/2018

63135 - Demolition of existing livery stables and erection of cat boarding facility - Withdrawn - Invalid 03/10/2018

64563 - Relocation of existing car park to area of hardstanding currently used for big bale storage - Withdrawn by Applicant 17/03/2020

Bolton MBC relevant applications

18535/24: Prior Approval Application for the proposed erection of a building for the storage of hay and straw - Prior Approval not required, 26/07/2024.
This building has a floor area of 333sq.m.

04291/18: Demolition of stables and erection of cat boarding facility. Approved with Conditions, 12/11/2018

00877/17: Variation of Condition 02 on application 89471/13 (02 - Substitution of Proposed Site Plan) - Approved with Conditions, dated 12/07/2024

00486/17: Extension to existing building to provide agricultural storage building. Approved with Conditions, 16/04/2013

89471/13: Demolition of existing stables, storage and shop buildings and erection of replacement stables, ancillary shop and sand paddock - Approved with Conditions, 20 February 2013

Publicity

Class A of Part 6, of Schedule 2 of the General Permitted Development Order 2015 (as amended) sets out that if prior approval is required regarding the proposal, the applicant must erect a site notice for a period of 21 days alerting the public to the application.

The LPA has not given the applicant notice that prior approval is required.

Statutory/Non-Statutory Consultations

Not applicable.

Pre-start Conditions - Not applicable.

Relevant Policies and Legislation

Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

Issues and Analysis

The following report includes analysis of the merits of the application against the relevant policies of both the National Planning Policy Framework (NPPF), the adopted Places for Everyone Joint Development Plan Document (PfE) and the saved policies within the adopted Bury Unitary Development Plan (UDP), together with other relevant material planning considerations.

The policies of the UDP that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations. For simplicity, just the UDP and PfE Policies will be referred to in the report, unless there is a particular matter to highlight arising from the NPPF where it would otherwise be specifically mentioned.

Equality Act 2010: All planning applications are considered in light of the Equality Act 2010 and associated Public Sector Equality Duty, where the Council is required to have due regard for:

- The elimination of discrimination, harassment and victimisation;
- The advancement of equality of opportunity between persons who share a relevant protected characteristic and person who do not share it;
- The fostering of good relations between persons who share a relevant protected characteristic and person who do not share it; which applies to people from the protected equality groups.

Human Rights: All planning applications are considered against the provisions of the Human Rights Act 1998.

Under Article 6 the applicants (and those third parties who have made representations) have the right to a fair hearing and to this end full consideration will be given to their comments.

Article 8 and Protocol 1 of the First Article confer a right to respect private and family life and a right to the protection of property, ie peaceful enjoyment of one's possessions which could include a person's home, and other land and business assets.

In taking account of the Council policy as set out in the Bury Unitary Development Plan 1997 and all material planning considerations, it is concluded on balance that the rights conferred upon the applicant/ objectors/ residents/ other interested party by Article 8 and Article 1 of the First Protocol may be interfered with, since such interference is in accordance with the law and is justified in the public interest. Any restriction of these rights posed by refusal/ approval of the application is legitimate since it is proportionate to the wider benefits of such a decision, is based upon the merits of the proposal, and falls within the margin of discretion afforded to the Council under the Town & Country Planning Acts.

The Crime and Disorder Act 1998 imposes (without prejudice to any other obligation imposed on it) a duty upon the Council to exercise its functions and have due regard to the likely effect of the exercise of its functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. In so doing and on making planning decisions under the Town and Country Planning Acts, the material Planning considerations shall have due regard to the provisions of the Crime and Disorder Act 1998 and its implications in the exercise of its functions.

ASSESSMENT

An application made under this procedure is for a determination as to whether the prior approval of the Local Planning Authority would be required for the siting, design and external appearance of the building and the Authority must notify the applicant within 28 days if prior approval is required or not.

In order to qualify for permitted development rights set out within Class A of Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) there are a number of criteria/conditions of development which should be satisfied. The first matter to assess is whether the development proposed will be carried out on “agricultural land comprised in an agricultural unit of 5 hectares or more in area of works for the erection of a building which are reasonably necessary for agriculture within that unit”:

Section 336 of the Town and Country Planning Act 1991 defines agriculture (for planning purposes) as activity on land “includes horticulture, fruit growing, dairy farming, the keeping and breeding of livestock (including any creature kept for the production of food, wool, skins, fur or for the purpose of farming the land), the use of the land as grazing land, meadowland, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to farming of the land for other agricultural purposes, and ‘agricultural’ shall be construed accordingly.”

Paragraph D.1 of the Order provides clarity on what constitutes ‘agricultural land’. It states: “(1) For the purposes of Classes A, B and C —

“agricultural land” means land which, before development permitted by this Part is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business, (my emphasis) and excludes any dwellinghouse or garden;”

The application submission states that the farm/agricultural unit measures 28.1 hectares and that the farm is an established agricultural unit. However, the planning history illustrates that there are varying uses within the site, including an equestrian livery yard for 28 horses and a building used for a Cattery business. Non agricultural uses are typical within agricultural units, as they seek to diversify in order to continue their agricultural trade/business.

It was evident at the time of my site visit that the livery yard aspect present on the Shoreside Bungalow site occupied a large area of land and a sizeable building was in use for the cattery business being operated. Equestrian livery is not classed as an agricultural use and therefore the applicant was asked to provide a plan defining the true extent of the fields that are used for agricultural purposes and also to define the areas of the land used for horticultural purposes. This has been provided and shows the extent of area occupied as part of the agricultural unit as being an area of land equating to approximately 13.56 hectares. This is in excess of the minimum 5 hectares required by the Order.

The agricultural use of the land has been confirmed as being used for a flock of 100 Breeding Ewes (Sheep) and for taking a hay crop to feed those sheep.

It is considered that the applicant has demonstrated the land has been in an agricultural use as part of an established agricultural unit and that the proposed building is reasonably

necessary for the purposes of agriculture within that unit and therefore the proposals are considered to be able to benefit from the Part 6 rights available in the GPDO.

Development not permitted

A.1 Development is not permitted by Class A if—

(a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area;

It is clear that a mix of units exist on the wider site. The proposed buildings would replace an existing agricultural building as well as two stable buildings and a mobile home and therefore it is clear that the agricultural building would not be on a separate parcel of land. It also measures over 1 hectare.

(b) it would consist of the erection or extension of any agricultural building on an established agricultural unit (as defined in paragraph X of Part 3 of this Schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class A(a) begins;

The site does not benefit from any development under Class Q or S of Part 3 (changes of use) of this Schedule carried out within a period of 10 years ending with the date on which development under Class A(a) begins.

(c) it would consist of, or include the erection, extension or alteration of a dwelling;

The proposal would not consist of, or include the erection, extension or alteration of a dwelling.

(d) it would involve the provision of a building, structure or works not designed for agricultural purposes;

The proposal is designed for agricultural purposes only.

(e) the ground area which would be covered by—

(i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations; or

(ii) any building erected or extended or altered by virtue of Class A, would exceed 1,000 square metres, calculated as described in paragraph D.1(2)(a) of this Part which states:

an area which would be covered by the proposed development, together with the ground area of any building (other than a dwelling), or any structure, works, plant, machinery, ponds or tanks within the same unit which are being provided or have been provided within the preceding 2 years and any part of which would be within 90 metres of the proposed development.

The proposed development would not accommodate livestock or plant or machinery arising from engineering operations. The floor area of the proposed building workshop and store measures 333m² and is below the threshold.

In terms of other agricultural buildings within the preceding 2 years to be considered cumulatively, Bolton MBC has approved a building with a floor space of 335 sq.m on the 26/07/2024 - see Planning History section above.

The buildings would therefore have a combined total of 668 sq.m and therefore falls below the allowance allowed within a two year period.

(f) the height of any part of any building, structure or works within 3 kilometres of

the perimeter of an aerodrome would exceed 3 metres;

The structure would not be within 3 kilometres of the perimeter of an aerodrome.

(g) the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;

The maximum height of the structure would be 6.6m, therefore not exceeding 12 metres.

(h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;

No part of the development would be within 25 metres of a metalled part of a trunk road or classified road. Prestollee Road is sited over 50m away from the proposed building and the A667 (Kearsley Road) is sited over 160m away from the proposed building.

(i) it would consist of, or include the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or for the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building;

The proposed development is not for any of the stated purposes and is not within 400m of a protected building.

(j) it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming

It would not involve excavations or engineering operations on or over article 2(4) land.

(k) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system—

(i) would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or

(ii) is or would be within 400 metres of the curtilage of a protected building.

The proposed development would not be used for storing fuel for or waste from a biomass boiler or an anaerobic digestion system and is not within 400m of a protected building.

Conditions

A.2 (1) – The development is not to accommodate livestock, will not involve mineral extraction, and will not bring waste material on to the land.

A.2 (2) - The development does not consist of the formation or alteration of a private way.

Prior approval is not required for the siting, design and external appearance of the development. However plans have been submitted which illustrate that the buildings would be appropriately sited and be of a suitable design.

A written description of the development and plans have been submitted with the application and a plan has been submitted identifying the extent of the agricultural land within the wider parcel of land.

In view of the above, based on the submitted information, the proposed development is considered to be permitted development under Class A.

Conclusion

It is considered that the proposed agricultural building constitutes development that accords with Class A, Part 6 of the Order development as it would be reasonably necessary for the purposes of agriculture in association with that trade or business.

It is considered that the siting, design and external appearance of the proposed development put forward in the submission documents is acceptable in terms of its design being appropriate for its intended use and the appearance and siting of the buildings being sympathetic to the character and visual amenities of the landscape in which it is set.

Given the mixed use nature of the site a condition is imposed to ensure the building is not used for any other purposes other than those relating to agricultural uses.

Recommendation: Bury Metropolitan Borough Council Hereby determine that the prior approval of the local planning authority is **NOT REQUIRED** for the siting and appearance of the development as described in Part 1 of this decision notice.

Conditions and Reasons:

- 1 This decision relates to the following drawings received on the the 01 July 2024 and on the 26 July 2024:

- Location Plan - Stanfords Planning Map Date;m and,
- Drawing no. ML/HO/6301: Prior Notification Agricultural Storage Building.

The development shall not be carried out except in accordance with the drawings hereby approved.

Reason. For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the Bury Unitary Development Plan listed.

- 2 The building(s) 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 agricultural unit 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 agricultural unit and in accordance with Part 6 of the Town and Country (General Permitted Development Order) 2015 (as amended) given the mixed use nature of the wider land holding.

<u>Case Officer</u> CB	<u>Date</u> 26/7/2024	<u>Sign off Officer</u> DM - 29/07/2024	<u>Date</u>
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