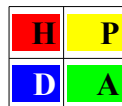


**Application to vary a condition relating to prior notice approval No.
69814 for the construction of an agricultural building at Sheep Hey
Farm, Whalley Road, Shuttleworth, Bury BL0 0EG**

Planning statement



**September 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 vary 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).

The application is made to vary the above condition so that it is replaced by the following :-

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.

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 LPA's condition 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,(even for a day) then the building must be removed.

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

4. 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.

5. 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.

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

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

Summary

The LPA's condition No 2 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 in the future.(Eg. under Schedule 2, Part 3 of the GPDO). For this reason, and as shown in the two submitted appeal decisions at Northfield Road and at Vale Lodge, Rossendale, it does not meet the 6 tests for conditions.

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, with a requirement that the building might be the subject of a Breach of Condition Notice and have to be summarily removed,