



## Appeal Decision

Site visit made on 28 November 2022

**by Paul Thompson DipTRP MAUD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 January 2023**

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### **Appeal Ref: APP/X1925/W/22/3298494 Millbury Farm, Mill End, Sandon SG9 0RN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr J Sapsed against the decision of North Hertfordshire District Council.
  - The application Ref 22/00586/AG, dated 24 February 2022, was refused by notice dated 24 March 2022.
  - The development proposed is agricultural storage building and agricultural track. Track to be 2.5 metres x 280 metres. Hardstanding 50m<sup>2</sup>. Total - 974 m<sup>2</sup>.
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

2. The Council did not consider the siting, design, and external appearance of the proposal in its decision, so I invited the main parties to comment regarding the implications of such matters and I have had regard to the responses received.

### **Main Issues**

3. The proposal is for determination as to whether prior approval is required for an agricultural building, access track and hardstanding, so relates to Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order). The main issues are therefore:
  - whether or not the proposal would comply with the conditions and limitations of Class A of Part 6 to Schedule 2 of the Order, with particular regard to whether or not they would be carried out on agricultural land, within an agricultural unit, and are reasonably necessary for the purposes of agriculture within the unit; and
  - if so, whether or not prior approval can be given having regard to the siting, design, and external appearance of the proposal.

### **Reasons**

#### *Agricultural Land, Unit and Whether Reasonably Necessary*

4. In order to benefit from the rights presented in Class A of Part 6 to Schedule 2 of the Order, works for the erection, extension, or alteration of a building; or any excavation or engineering operations, have to be carried out on

- agricultural land comprised in an agricultural unit exceeding 5 hectares in size; and be so used for the purposes of a trade or business.
5. There is no dispute between the main parties that the land at Millbury Farm is used for anything other than the process of agriculture, in this case the growing of grass for silage and grazing; and extends to 21 Hectares in size. The land therefore meets the requirements of the Order in both respects.
  6. Paragraph D.1(2)(a) in Class A of Part 6 to Schedule 2 of the Order explains that any other building, structure, works, plant, machinery, ponds, or tanks constructed within the same unit which are being provided or have been provided within the preceding two years should be taken into account in establishing the size of a proposal, but only in relation to any part within 90 metres of the proposed development. The building at Slate Hall Farm was permitted in July 2021 but is 2.5 miles away, so is not included.
  7. The evidence before me confirms Slate Hall Farm is a smaller parcel of land, within the agricultural unit. The appellant states it is a base all year round, but is only suitable for storage out of season, not for the items of machinery and equipment required to farm the larger parcel of land at Millbury Farm. The appellant proposes to also store fertilisers, other equipment, materials and feed used in connection with grazing of the land.
  8. The appellant may well have argued the building at Slate Farm was intended to meet these requirements, one course of action may therefore see him work Millbury Farm from the building at Slate Farm. While the proposal would result in buildings at both locations, it would be an alternative course of action that a reasonable person could choose to take, as it would avoid movements between farms, and it would be of a size and nature reasonably necessary for the purposes of agriculture within the unit.
  9. The proposed building and hardstanding would be linked, by a hardcore access track, to the existing hardstanding at Mill End. It would have a surface finish similar to the latter and its width would exceed requirements of Government<sup>1</sup> guidance. The new hardstanding would enable vehicles to access the gated entrance of the enclosed part of the building and the remainder would be open sided and accessible from surrounding land. There is no fit for purpose test in the Order and the practical reality of the hardstanding or track exceeding the dimensions set out in the proposal is a matter for the Council to investigate in circumstances where an appeal is successful. In the proposal, the access track and hardstanding would be reasonably necessary for the purposes of agriculture within the unit.
  10. For the reasons given, the proposed building, hardstanding and access track would be situated on agricultural land comprised in an agricultural unit of five hectares or more. They would also be reasonably necessary for the purposes of agriculture within the unit. As such, they would comply with these particular conditions and limitations of Class A of Part 6 to Schedule 2 of the Order.

#### *Siting, Design, and External Appearance*

11. Paragraph A.2(2)(i) of the conditions to Class A of Part 6 to Schedule 2 of the Order explains that "the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior

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<sup>1</sup> Department for Environment Food and Rural Affairs.

approval of the authority will be required as to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be”.

12. Development in Mill End is generally situated within close proximity of the route leading through it and it is enveloped by fields enclosed by mature hedgerows and trees, all of which contribute positively to the rural character of this part of the district. The appellant’s land is typical of these fields and extends some way from Mill End behind the neighbouring equestrian site.
13. The proposed building, access track and hardstanding would be close to the southern boundary of the field and the Public Right of Way (PROW) leading from Mill End adjacent to the neighbouring equestrian site and further south beyond it. While the boundary includes some mature trees, it primarily consists of a patchy hedge of varying height.
14. Despite the design and external appearance of the proposed building being typical of its form and function, its siting would be remote from residences and other buildings in Mill End. It would also be prominent within its immediate surroundings in the field and from further south, where visible from the PROW. The building would therefore stand out as a prominent built incursion into the countryside, which would be harmful to the rural character of this part of the district. Accordingly, while the access track would function as an extension of the existing hardstanding near to Mill End, the siting of it and the hardstanding would be inappropriate, as they are proposed to serve the agricultural building.
15. The characteristics of the site of the building also undermine the notion that it would be important for its security, as it would be some distance from the visibility of neighbouring occupiers in Mill End, and accessible to the PROW.
16. In light of the above, I conclude that the proposal fails to meet condition A.2.(2)(i) to Class A of Part 6 to Schedule 2 of the Order.

### **Conclusion**

17. Prior approval of the siting, design and external appearance of the building is required and, for the above reasons, the siting of the proposal would be unacceptable. Accordingly, prior approval is refused, the proposal is not permitted development under the provisions of Class A of Part 6 to Schedule 2 of the Order and the appeal is dismissed.

*Paul Thompson*

INSPECTOR