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## Appeal Decision

Site visit made on 4 January 2017

**by David Walker MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 31<sup>st</sup> January 2017**

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**Appeal Ref: APP/F9498/W/16/3158885**

**Land at Mineral Lane, Field No 0668, Roadwater, Somerset TA23 0QY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 6, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order).
  - The appeal is made by Mrs D Smith against the decision of Exmoor National Park Authority (the NPA).
  - The application Ref GDO 16/04, dated 27 May 2016, was refused by notice dated 27 June 2016.
  - The development proposed is an agricultural steel building.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. Having regard to the NPA's single reason for refusal and accompanying note I consider the main issues in the appeal to be:
  - i) whether the proposal would amount to being a permitted development under Schedule 2, Part 6, Class A of the Order; and
  - ii) the effect of the proposal on the character and appearance of Exmoor National Park.

### Reasons

3. The proposed building is required for the storage of hay, feeds and machinery in connection with the stated use of the land for the rearing of lambs and sheep, and hay production. It would consolidate a number of existing smaller structures contained within a single field and which forms part of a larger holding of 19 hectares.
4. Although it is submitted for the appellant that it is beyond doubt that a holding of this size must fall within the meaning of agriculture, I do not concur that size alone triggers the benefit of permitted development rights under Class A. Given the finding of a mix of uses at the appeal site by an Inspector in previous appeals<sup>1</sup> I consider that the NPA was entitled to question the applicability of Class A rights to the proposal. In the first instance therefore I am required to consider whether the proposal could amount to being a permitted development under the Order before addressing the issues arising from the application for prior approval.

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<sup>1</sup> Appeals Ref: APP/F9498/C/14/2224676 and APP/F9498/C/14/2225731

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5. Specifically, the permitted development right conveyed by the Order is conditional under paragraph A of Class A on the erection of the proposed building being carried out on agricultural land comprised in an agricultural unit of 5 ha or more, and being reasonably necessary for the purposes of agriculture within that unit. Clarification of the interpretation of Class A is provided at paragraph D.1.(1) to Part 6 where it is stated that “‘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’.
6. Only a variety of small scale activities were apparent at the time of my site inspection, including the keeping of poultry and a pony, and the storage of hay. While the appellant submits that revenues from the holding provide her sole income, there is no explanation of how this is derived and it is not corroborated with any documentary evidence of sales or accounts. I cannot be certain therefore that the activities at the holding amount to being a trade or business as required by the Order, as opposed to being a recreational or ‘hobby farming’ activity. As an agricultural use is required to be established before the permitted development is carried out it could not reasonably be conditioned.
7. Moreover, while the 2.9 hectares of land forming the appeal site are owned by the appellant, Table 1 of the submitted statement of case explains that the majority of the land of the holding is formed from other parcels that are either rented or gifted in return for grass or upkeep. The supporting evidence provided at Appendix 3 to the statement shows only rolling yearly agreements with landowners. These could be rescinded at relatively short notice. Therefore, even if the use of the land were to amount to being a trade or business, the lack of security of tenure would not assure a unit of 5 hectares or more within which the proposal could be deemed to be reasonably necessary.
8. Overall, on the information available to me, I do not find that the appeal site can be regarded as agricultural land under the definition provided at paragraph D.1.(1) of the Order, or that the building to be erected would be reasonably necessary for the purposes of agriculture. On this basis the proposal would not amount to being a permitted development under Schedule 2, Part 6, Class A of the Order. A specific planning permission would therefore be required.
9. As I do not find the proposal to be permitted development I have not considered the prior approval application further. Therefore, while I have some sympathy with the appellant’s desire for a suitable building, and I acknowledge the efforts to achieve an appropriate design and the support offered by interested parties, I am unable to take the merits of these into account.

### **Conclusion**

10. For the reasons given above, as I do not find the proposal to amount to a permitted development under the Order I conclude that the appeal should be dismissed.

*David Walker*

INSPECTOR