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## Appeal Decision

Site visit made on 13 December 2022

**by Stewart Glassar BSc (Hons) MRTPI**

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

**Decision date: 13 January 2023**

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**Appeal Ref: APP/C3620/W/22/3295367**

**Bregsells Farm, Bregsells Drive, Beare Green, Surrey RH5 4QY**

- 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 D Laker against the decision of Mole Valley District Council.
  - The application Ref MO/2022/0291/DEA, dated 18 February 2022, was refused by notice dated 18 March 2022.
  - The development proposed is the erection of an agricultural building of 33 metres x 30 metres for storage of hay, straw and agricultural machinery.
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 2015 as amended for the erection of an agricultural building of 33 metres x 30 metres for storage of hay, straw and agricultural machinery at Bregsells Farm, Bregsells Drive, Beare Green, Surrey RH5 4QY in accordance with the terms of the application MO/2022/0291/DEA, dated 18 February 2022, and the plans submitted with it.

### Preliminary Matters and Main Issue

2. 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 GPDO), the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area is permitted for works for the erection, extension or alteration of a building which are reasonably necessary for the purposes of agriculture within that unit.
3. Condition (2)(i), of paragraph A.2, includes the requirement for the developer to apply to the Local Planning Authority for a determination as to whether its prior approval would be required for the siting, design and external appearance of the agricultural building.
4. Although the decision notice purports to refuse prior approval, the reason for refusal states that the development is not considered to comprise permitted development under Part 6, Class A. Therefore, should I conclude that the proposal falls within the scope of this part of the GPDO, consideration must then be given to the prior approval matters, which relate to the siting, design and external appearance of the building. The Council was given the opportunity to comment on these matters.

5. I have taken the description of development from that used in both the Council's decision notice and appellants' appeal form. The development cited on these, and the application form, relates only to a building. The appeal is determined on that basis, being the development expressly sought by the appellant and determined by the Council.
6. The main issue is therefore whether the proposed development benefits from the provisions of Schedule 2, Part 6, Class A of the GDPO.

## **Reasons**

7. Development under Part 6, Class A is permitted subject to a number of limitations and restrictions. Paragraph A.1(e) establishes a limit to the ground area which can be covered by any works or structure, or any building erected by virtue of Class A. It should not exceed 1,000 sqm and should be calculated as described in paragraph D.1(2)(a).
8. Having assessed the application, the Council is content that the development meets all limitations and restrictions other than that set out in Paragraph D.1(2)(a). I have no reason to conclude otherwise in respect of the Council's findings regarding the other limitations and restrictions.
9. Paragraph D.1(2)(a) sets out that 'an area "calculated as described in paragraph D.1(2)(a)" comprises the ground 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;'
10. The officer report acknowledges that the building would measure 990 sqm and goes on to note that no other farm buildings have been provided in the last two years. There is no suggestion that there have been any other structures, works, plant, machinery, ponds or tanks provided within the last two years.
11. Accordingly, the proposal would not appear to be contrary to the requirements of paragraph D.1(2)(a). However, the officer report concludes that there is an existing building within 90 metres of the proposed building and so on this basis the proposal cannot be considered as permitted development.
12. However, in my opinion, the 90 metres calculation cannot be divorced from the consideration of whether the works are being provided or have been provided within the previous two years. On a straightforward reading of D.1(2)(a) it cannot be the case that a proposed development falls foul of the GDPO simply because it is within 90m of another building. The operative words 'and any part of which' leads me to conclude that any such other building needs to be both within 90m of the proposed development and also to be being provided or have been provided within the past two years. Given the officer report and my own observations on site, there is no evidence to suggest that any building or other works or structures etc. within 90 metres of the proposal are being provided or have been provided within the past two years.
13. Given the above, I therefore conclude that the building is not contrary to the provisions of paragraph D.1(2)(a) and so complies with the requirements of A.1(e).

14. As such, it is necessary to consider the siting, design and external appearance of the proposal. The building would be set at a lower level than the nearby buildings and where views of the proposal would be possible, it would be read and experienced against the agricultural nature of the site and the surrounding open fields. It would have a rectangular design with shallow pitched roof. Although it would be sizeable, I consider that this would be appropriate in the context of the overall size of the site, and given the space required to store hay, straw and agricultural machinery. In terms of its external appearance, it would be finished in vertical timber boarding with fibre cement roof sheets and so broadly reflect the materials of other buildings within the farm
15. Overall, it would be in keeping with the general agricultural nature and appearance of the site. I therefore find the siting, design and external appearance of the proposal to be acceptable.

### **Conclusion**

16. For the reasons given above, the appeal should be allowed, and prior approval should be granted.

*Stewart Glassar*

INSPECTOR