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## Appeal Decision

Site visit made on 22 November 2022

**by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI**

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

**Decision date: 7 February 2023**

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**Appeal Ref: APP/P0119/W/22/3290074**

**The Elms, Upper Tockington Road, Tockington Bristol, BS32 4LQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Bruce Farr against the decision of South Gloucestershire Council.
  - The application Ref P20/22430/F, dated 11 November 2020, was refused by notice dated 16 July 2021.
  - The development proposed is for an agricultural building.
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### Decision

1. The appeal is allowed and planning permission is granted for an agricultural building at The Elms, Tockington, Bristol, BS32 4LQ in accordance with the terms of the application, Ref P20/22430/F, dated 11 November 2020, subject to the following conditions:
  - 1) Should the use of the building, subject to this approval, for agricultural purposes permanently cease the building shall be fully dismantled and the materials shall be removed from the land. The land, so far as is practicable, must be restored to its former condition before development took place, or to such a condition as shall otherwise have been agreed in writing by the Local Planning Authority.
  - 2) The building hereby approved shall be used solely for agriculture as defined in section 336(1) of the Town and Country Planning Act 1990 and for no other purpose.
  - 3) The external works to the building hereby approved shall accord with that shown on the Proposed Plans and Elevations drawing (Drawing No. 50620/06/103 Rev. A), including the removal of the domestic style double glazed windows, and shall be completed within 6 months of the date of this permission and shall be maintained as such thereafter.
  - 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 50620/06/103 Rev. A; Location Plan; and Block Plan.

### Preliminary Matters

2. The building, subject to this appeal, already exists. An application for prior approval for an agricultural barn was made in 2016. The Council gave notice that no prior approval was required on 16 September 2016. However, the building was not used for agricultural use and instead used for commercial storage and distribution.

3. Appeal decisions (APP/P0119/C/18/3200307 and APP/P0119/W/19/3222700), following Council enforcement action, were dismissed, upholding the enforcement notice (including the requirement to remove the building) and dismiss the proposal for it to be used as a commercial building, particularly due to this site being within the Green Belt.
4. This proposal is now to retain the building, but as an agricultural building, with some modifications, such as the removal of the mezzanine floor for example.

### **Main Issue**

5. The main issue is whether there are existing alternative agricultural buildings which could be used, rather than the building subject to this appeal, for the purposes required.

### **Reasons**

6. Policy PSP29 (Agricultural Development) of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (adopted November 2017) (the Local Plan) sets out the following:

*Development proposal(s) for agricultural development outside the defined urban areas and settlement boundaries will be acceptable providing that in the case of new buildings:*

- 1) there are no existing suitable underused buildings, reasonably available; and*
- 2) the proposal(s) is reasonably necessary for the purposes of the use and is clearly designed for that purpose.*

7. The Council have confirmed that there is no dispute with regard to Part 2 of this policy. Information has been received with regards the tenant farmer (Mr Cheaker of Ostbridge Manor Farm) and his use of the substantial farmland at The Elms Farm. The reason for refusal is not related to whether the building is reasonably necessary for the purposes of agriculture or designed for that purpose. Indeed, the proposed works to the building would only improve further its suitability for agricultural use. I am satisfied that there is a demand currently for the building for agricultural use and its design and form is such that it can be used for this purpose. There was evidence of it being used for agricultural storage at the time of my site visit.
8. The sole matter of dispute with the Council relates to the existing buildings and whether any of these could be used by the tenant farmer instead for his agricultural purposes, in accordance with Part 1 of policy PSP29.
9. It is understood that the tenant farmer has no available buildings at his farm, which is also a distance from The Elms Farm. There is no substantive evidence to the contrary. Also, the appeal building is at the site of The Elms, which would be beneficial when he is farming the land near here.
10. The appellant's Statement of Case was accompanied by a plan of the site, referencing all the buildings and then providing a table of why each was either not suitable for agricultural use or not currently available.
11. I observed these buildings on site and I am satisfied that those identified as not suitable for modern agricultural purposes are as the evidence suggests. The height of some buildings is a particular issue.

12. There are the other buildings, such as building P, which is of a more appropriate size and form, but they are not currently available. Sworn affidavits have been submitted in some cases to support this evidence. From my observations these buildings are not underused or reasonably available for the tenant farmer.
13. There had been no certificate of lawfulness at the time of my site visit that I was aware of to demonstrate that some of these buildings are not agricultural anymore. Nonetheless, the evidence before me and my site visit observations indicate that these buildings are neither available nor underused, as is the test set out in the policy. Furthermore, I understand that some of the buildings have a Certificate of Lawfulness for storage now.
14. On this basis, I conclude that the proposal meets with both requirements of policy PSP29 and so is in accordance with this policy.
15. I recognise that appeal reference APP/P0119/C/18/3200307 was dismissed, but the proposals in this case is very different. This is a proposal for an agricultural building with there being current justification for its use for agriculture. This is not a proposal for a storage use within the building, which would have differing policy consequences with regard to the Green Belt, for example. As such, I have primarily based this decision on the merits of the case before me, with the use of relevant and necessary conditions.

### **Other Matters**

16. As set out by the Council, as the proposal is for an agricultural building it is not inappropriate in the Green Belt, in accordance with the National Planning Policy Framework.
17. The building appears as an agricultural building, adjacent to agricultural farmland, within a cluster of former farm buildings. On that basis the building does not appear incongruous within its surroundings or visually harmful within the landscape. The building does not have an adverse impact to the significance of the nearby Conservation Area, due to its setting within this complex. The building is already screened by existing vegetation to some extent and I do not consider that further landscaping required through a condition is necessary.
18. There is no substantive evidence that the building with an agricultural use would have a materially adverse impact to the surrounding road network, through additional traffic congestion or safety issues for example.
19. Given the separation distance to residential properties in the area the proposal would not have harmful impacts to neighbour amenities if retained and used for agriculture.

### **Conditions**

20. Both the Council and appellant have suggested conditions. There have been concerns raised with regards to what would happen if the agricultural need for the building fell away. Given the planning history, including the appeal decision recently, I consider it was suitable to include conditions that require that the building be only used for agricultural use, and it should be removed if this use ceases. There should also be a condition to implement the proposed changes to

the building, as proposed, as this would make it more suitable for agricultural use.

21. It is noted that the agricultural use seems dependent on the tenant farmer rather than the applicant, but I have no reason to doubt that this working relationship would continue, given the established link of Mr Cheaker with the farmland at Elms Farm. If the agricultural use for this appeal building by the tenant farmer ceases and was not replaced, then there is the condition to remove the building.

### **Conclusion**

22. For the reasons given I conclude that the appeal should succeed, subject to the conditions above.

*Mr S Rennie*

INSPECTOR