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## Appeal Decisions

Site visit made on 5 March 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 MARCH 2025

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**APP/U2370/X/24/3348092**

**Winacre Farm, Turkey Street, Out Rawcliffe, Preston, PR3 6TA**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
  - The appeal is made by Mr Robert Fenton of P & R Fenton Limited against the decision of Wyre Borough Council.
  - The application ref 24/00017/LAWP, dated 4 January 2024, was refused by notice dated 21 June 2024.
  - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended).
  - The development for which a certificate of lawful use or development is sought is described as erection of 8 metres by 15 metres shed for the purposes of storing machinery, equipment, hay and straw for the purposes of agriculture as the holding has no other buildings.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. A Lawful Development Certificate (LDC) is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful. Therefore, for the avoidance of doubt, I make clear that the planning merits of the proposed use of the chalet style cabin as a holiday let are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.
3. The LDC application was made under section 192(1)(a) of the Town and Country Planning Act 1990 (as amended) and was to legally ascertain whether the erection of the proposed building would be lawful.
4. The main issue is whether the Council's decision to refuse to grant an LDC was well founded with particular regard as to whether it has been demonstrated that the proposal would be permitted development and could be lawfully constructed given the limitations and conditions of Class A of Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

### Reasons

5. Subject to the development meeting the permitted development requirements in Class A of Part 6 of Schedule 2 of the GPDO, there is then a requirement for such permitted development to meet the conditions as laid out in paragraph A.2 of Class A of Part 6 of Schedule 2 of the GPDO. The proposal is for the erection of a new agricultural building and condition A2(a)(i) states that before the beginning of the

development the developer must apply to the local planning authority (LPA) for a determination as to whether prior approval of the authority will be required as to the siting, design and external appearance of the building. Condition A2(a)(iii) states that development must not begin before the occurrence of one of the matters listed in condition A2(a)(iii)(aa), (bb) or (cc).

6. While there is evidence to suggest that the appellant has applied three times to the LPA for a determination as to whether prior approval is required in respect of the building which is the subject of this appeal, there is no evidence before me that any of the requirements in condition A2(a)(iii)(aa), (bb) or (cc) were satisfied in respect of these applications. I emphasise, however, that I have not been provided with any details of the above three applications.
7. It was open to the appellant to have appealed one or more of the above separate 'prior approval' decisions, but there is no evidence before me to indicate that any such appeals were lodged. For the above reasons, I cannot conclude that the proposed development can be lawfully constructed.
8. Class A of Part 6 of Schedule 2 of the GPDO states that the erection of an agricultural building is permitted development if it is carried out on '*agricultural land comprised in an agricultural unit of 5 hectares or more*' and which is '*reasonably necessary for the purposes of agriculture within that unit*'. The GPDO defines an agricultural building as a '*building (excluding a dwellinghouse) used for agriculture and which is so used for the purposes of a trade or business, and agricultural use refers to such uses*', and defines an established agricultural unit as '*agricultural land occupied as a unit for the purposes of agriculture*'.
9. Given my conclusion in paragraph 5 of this decision, it is not strictly necessary for me to conclude whether the proposal would be permitted development. Even if I were to find that the proposal satisfied permitted development requirements, this would not alter my conclusion that there is no evidence before me that any of the requirements of condition A2(a)(iii)(aa), (bb) or (cc) have been met with reference to any Class A prior approval application.
10. Notwithstanding the above, I acknowledge the appellant's statement of oath and his comment that he '*farms about 200 acres of land*' and that '*due to the size of the machinery and cost of movement it is better to have a purpose built shed at this location*'. I note that the appeal site falls within '*areas of ground farmed*' in exhibit 1 of the appellant's statement of oath. The evidence does appear to indicate that the appellant owns farmland, including the appeal site. He may be engaged in farming activity, although the specifics and extent of any farming activity occurring on the identified land is not sufficiently clear based on the evidence that is before me.
11. In addition, I am not certain if others farm the land (perhaps on a leasehold or tenancy basis) and hence whether the appellant's land ownership constitutes a series of separate agricultural units. This is an important consideration when considering whether Class A or Class B of Part 6 of Schedule 2 of the GPDO is applicable to the proposal. Indeed, new buildings are not permitted development under Class B of Part 6 of Schedule 2 of the GPDO. Moreover, I do not know what machinery/equipment would need to be kept in the building, or the amount of hay or straw needed to be stored. I am not clear about what land or agricultural unit(s) the machinery/equipment and/or the hay/straw to be stored in the building would relate to. On the evidence that is before me, I am unable to find with certainty that the

building would be reasonably necessary for the purposes of agriculture within that unit.

12. In this case, I do not have sufficient information before me to reach a clear finding that the proposal would be permitted development in respect of Class A of Part 6 of Schedule 2 of the GPDO. Based on the submitted evidence, and, on the balance of probability, I do not find that the proposed construction of the appeal building would be lawful.

### **Conclusion**

13. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the erection of an 8 metres by 15 metres shed for the purposes of storing machinery, equipment, hay and straw for the purposes of agriculture is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

*D Hartley*

INSPECTOR