



Appeal Decision

Site visit made on 23 April 2025

by H Faulkner BSc (Hons) MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2025

Appeal Ref: APP/F0114/W/25/3359332

Double Hill Farm, Double Hill, Shoscombe, Bath and North East Somerset BA2 8PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 David Cradock against the decision of Bath and North East Somerset Council.
 - The application Ref is 24/02968/AGRN.
 - The development proposed is the erection of agricultural storage building.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr David Cradock against Bath and North East Somerset Council. This application is the subject of a separate decision.

Preliminary Matters

3. The site address used in the banner heading above is taken from the application form. This differs from the address shown on the decision notice. Although different both describe the location of the site and the position of the building proposed is clear on the documents provided. I have proceeded on this basis.
4. The description used above is taken from the decision notice, this is an accurate and succinct description and has been used as there is no single clear description on the application form.

Main Issues

5. Schedule 2, Part 6, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), permits the erection, extension or alteration of a building, and any excavation or engineering operations reasonably necessary for the purposes of agriculture within that unit, on agricultural land in an agricultural unit of 5 hectares or more in area. This is subject to certain criteria, and circumstances where development is not permitted are listed under Paragraph A.1.
6. The main issue in the appeal is whether the proposal would be permitted development under Schedule 2, Part 6, Class A of the GPDO, with particular regard to the height of

the proposed buildings in the context of the site's proximity to the perimeter of an aerodrome.

Reasons

7. At Schedule 2, Part 6, paragraphs A.1.(f) and A.1.(g), of the GPDO permits buildings and structures up to 3 metres in height within 3 kilometres of the perimeter of an aerodrome, or 12 metres in height where not within 3 kilometres of the perimeter of an aerodrome.
8. The height of the proposed building would be 6 metres. The Council concludes that the building is within 3km of the White Ox Mead airstrip and therefore does not comply with the above stipulations and is not permitted development. Parties accept that the proposal would be within 3km of the airstrip, however, the dispute relates to whether the airstrip falls within the definition of an "aerodrome".
9. The definition of an "aerodrome" is set out in paragraph 2. (1) of the GPDO and draws on the definition set out at paragraph 1 of Schedule 1 to the Air Navigation Order 2016 (ANO). The ANO's definition means any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft.
10. The definition within the GPDO sets out criteria (a) - (e) for interpretation purposes what constitutes an aerodrome for the purposes of the order. In the evidence provided correspondence from a representative from the airstrip states that none of the criteria apply to the airstrip or its operation. The Council contend that the airfield meets criteria (d) of the order which states that an aerodrome is 'one used by aircraft in the public transport of passengers or cargo or in aerial work.'
11. Under consideration is whether the aircraft are used for public transport of passengers. The meaning of 'public transport' is defined in the ANO as a) the flight is not a flight for the purpose of commercial air transport and b) the flight is (i) for the carriage of passengers or cargo and valuable consideration is given or promised for that flight in the aircraft or (ii) operated by the holder of a national air operator's certificate ... or a Part-CAT air operator certificate and any passengers or cargo are carried gratuitously in the aircraft except for persons specified in paragraph (3) or cargo specified in paragraph (4). The relevant part in contention here is what constitutes a passenger.
12. The ANO defines a passenger as a person other than a member of the crew, however, there is no definition of a passenger within the GPDO. In terms of the definition of a 'passenger' the appeal for 4 South Park Road¹ refers to the ordinary meaning of the word passenger taken from dictionary definitions. Definitions include traveller on a public or private conveyance other than the driver, pilot, or crew.
13. Whilst the airstrip might not be a commercial enterprise, it is, and can be, used by planes which carry more than one individual. Reference is made to two-seater planes being parked at the airstrip and that other planes use the landing strip at varying times. There is no evidence before me that larger planes do not, or cannot, use the facility. Other planes may carry more people and there may be no control over the number of passengers involved.
14. I have no information before me to demonstrate that all the planes using the airstrip are only carrying crew members, particularly if they have more than one seat. As a result, I

¹ APP/T5720/W/24/3345759

cannot conclude that the planes are not carrying passengers and therefore they would be considered as public transport under the definitions in the ANO.

15. Overall, I find that the aircraft using the airstrip could be considered to be involved in the public transport of passengers. As a result, the air strip falls within the definition of an aerodrome and therefore a building of more than 3 metres would not be within the requirements for permitted development within the GPDO.

Other Matters

16. I note that the Council has previously granted Prior Approval for another agricultural building nearby the same air strip. The Council have accepted that this decision was in error and have, following further consideration, concluded that the Ox Mead air strip is an aerodrome. This proposal has been determined in accordance with their updated position.

Conclusion

17. For the reasons given above the appeal should be dismissed.

H Faulkner

INSPECTOR