



Appeal Decision

Site visit made on 29 August 2025

by **N Duff BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 October 2025

Appeal Ref: APP/W3005/W/25/3361584

Land Associated to Mosley Farm, Mosley Road, Annesley NG15 0AB

- 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 Mrs Yasmin Smalberger against the decision of Ashfield District Council.
 - The application Ref is X/2024/0031.
 - The development proposed is Application to Determine If Prior Approval is Required for a Proposed Agricultural Building
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the Council's development description as it more concisely describes the development to which the appeal relates. It does not fundamentally change the development subject of the appeal. I am therefore satisfied that neither party would be prejudiced by my use of it.

Main Issues

3. The main issues of the appeal are:
 - Whether the proposal would fall under the scope of permitted development under Class A of Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) having particular regard to the size of the site.
 - Whether the proposal would accord with restriction under Class A.1 (i) of Part 6 of the GPDO regarding the accommodation of livestock.
 - Whether the proposal would accord with the restriction under Class A.1 (d) of Part 6 of the GPDO regarding the provision of a building, structure or works not designed for agricultural purposes.

Reasons

Size of the site

4. Class A of part 6 of the GPDO, allows for agricultural development on units of 5 hectares or more. Class A (a) is relevant to this appeal, which states that permitted development is the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of works for the erection, extension or alteration of a building.

5. The Council alleges that the site measures 4.9ha which falls below the 5ha threshold by 0.1ha. The appellant in their initial application forms stated that the site covered an area of 5.3ha. It appears from the evidence before me that further information to demonstrate the size of the site was not before the Council when it made its decision. However, further information has been provided at appeal stage to demonstrate the size of the agricultural unit, which I am able to consider as it does not seek to evolve the scheme but provides additional information to demonstrate the size of the site, which is over 5ha.
6. I am satisfied that in the absence of substantial evidence to the contrary, the additional information comprising mapping imagery, together with a title plan, is sufficient to adequately demonstrate that the site is over the required 5ha to meet the requirements of the GPDO and therefore the proposal would fall within the scope of permitted development with regard to the size of the site.

The accommodation of livestock

7. Part 6 Class A.1 (i) of the GPDO states that development is not permitted by Class A if it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock or of the storage of slurry or sewage sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building.
8. The Council has stated that the building would be for the accommodation of livestock and would therefore not meet the requirements of the GPDO. However, a building could be used for the accommodation of livestock if it is not within 400m of the curtilage of a protected building. Which for the purposes of the GPDO is defined in Part 6 D.1 (1) as any permanent building which is normally occupied by people or would be so occupied, if it were in use for purposes for which it is designed; but does not include—(a) a building within the agricultural unit; or (b) a dwelling or other building on another agricultural unit which is used for or in connection with agriculture.
9. The evidence from the main parties does not clarify whether the building is within 400m of the curtilage of a protected building. However, based on the information before me, the properties along Moseley Road, Recreation Road and Warren Avenue appear to be reasonably close to the site and possibly within this range, therefore I cannot be certain that the site is outside of the 400m requirement.
10. The application form which was before the Council when it made its decision does refer to the protection of livestock during adverse weather conditions, however the appellant has confirmed within their statement of case that the proposed building is not for the accommodation of livestock. This confirmation aligns with the proposed design of the building which does not show pens or stalls within, and it would have an open frontage.
11. Paragraph D.1 (3) of Part 6 which is referred to in paragraph A.2 (1)(a) of that part of the GPDO states that there are circumstances when buildings within 400m of the curtilage of a protected building can be used for the accommodation of livestock, which among other reasons includes, 'in the case of animals normally kept out of doors, they require temporary accommodation in a building or other structure because they are sick or giving birth or newly born, or to provide shelter against extreme weather conditions.'

12. Therefore, I am satisfied that, based on the information provided, the building would not be for the purposes of accommodating livestock and would fall within the provisions of the GPDO in this regard. However, should the temporary accommodation of livestock in a proposed building be required, this use could fall within the provisions of the GPDO as referred to above, and this would be a matter for the Council to monitor and enforce as necessary.

Design of the building for agricultural purposes

13. The proposed building would be a three-sided open fronted building with a shallow pitched roof. The building would be constructed from box profile wall cladding with plastisol-coated steel sheeting. I consider that the proposed building would have an agricultural appearance due to the proposed design and materials, and could be used for those purposes. I note that the application includes a track to access the building, however, the sole matter in dispute is whether the proposed building meets the scope of permitted development.
14. Under Part 6 Class A of the GPDO, permitted development would be the works for the erection, extension or alteration of a building which are reasonably necessary for the purposes of agriculture within that unit.
15. The Council's case alleges that the building would not be used for agricultural purposes due to the application stating that the land will be used for horse grazing, which would allude to the site being used for equestrian purposes and not for agricultural purposes.
16. On my site visit, I observed the grazing land subdivided into many smaller paddocks, with a small number of sheep grazing close to the area of the site where the proposed building would be situated. In addition, I also noted the presence of several chickens in a modest chicken coop. There was some associated equipment on site, such as, a quad bike, small trailers, a chain harrow and other paraphernalia. In addition to this several horses were grazing on the site.
17. The proposed building would measure 18m in length, 5m deep and around 3.9m in height, which in my view would be of a large scale. The information provided with the application stated that the proposed storage building would be to support ongoing and future agricultural activities on the land, the efficient operation and management of the land, intended for the weatherproof centralised storage of equipment, feed, and provisions for animal welfare. The evidence states that the building would be compliant with safety standards for agricultural use.
18. Notwithstanding this, I do not have detailed information before me relating to the scale of the agricultural operation on the site, as opposed to the keeping of horses which would, to my mind, be an equestrian use. The information does not detail the number of sheep and chickens kept at the site at the current time or to be kept at the site in the future or the hay yield from the site and therefore does not provide sufficient detail as to the size of the farming operation.
19. Furthermore, whilst I did observe some equipment on site, I do not have the full details of the size or type of machinery to be stored or why it would need to be stored in a building of this size. Additionally, the information does not adequately demonstrate the amounts of animal feed or other items that would be required for

an operation of this size and indeed how much would need to be stored in the proposed building.

20. Accordingly, based on the limited information before me and my observations on site, whilst the design of the building could be suitable for an agricultural use, I cannot be convinced that it is necessary for the purposes of agriculture. I have insufficient evidence before me conclude that the building itself would be used for agricultural purposes and not to support the equestrian use currently operating at the site. Therefore, for these reasons the proposal would not be within the scope of permitted development.

Other Matters

21. The appellant has stated in the evidence that proposed building would have a minimal visual impact and would be sited away from classified roads and would meet the further requirements of the GPDO. However, given my finding that the proposal is not permitted development, there is no purpose in going on to consider whether to grant prior approval.
22. The proposal includes the creation of an access track to the proposed building. However, as this was not a matter in dispute between the parties, and given my finding that the proposed building is not permitted development, it is not necessary to go on to consider whether to grant prior approval for the access track for the building in this case.

Conclusion

23. For the reasons given above I conclude that the appeal is dismissed.

N Duff

INSPECTOR