

Officer Report

Case Reference: NOT/2026/0446
Location: Land adjacent to, 1 Gorses, Heywood, BL9 6UD
Proposal: Prior approval application for the erection of an agricultural storage building
Recommendation: Refuse
Officer: Luke Rigby

SITE

The application site consists of an open parcel of land south of Bury and Rochdale Old Road and adjacent to No. 1 Gorses. The existing site comprises open land and is located within the Green Belt.

It should be noted that permitted development rights afforded by Part 6 of Schedule 2 of the GPDO are not withdrawn by reason of the site's location within the Green Belt.

PROPOSAL

The application is notification that the applicant intends to construct an agricultural building on the land to store hay and agricultural equipment such as tractors; the building would be some 9.1m wide, 13.7m deep and have a height to the ridge of 4.8m. It would be clad in vertical timber.

RELEVANT PLANNING POLICY

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Part 6, Class A of Schedule 2 relates to units of 5ha or more.

Relevant Case Law

R (Marshall) v East Dorset District Council [2018] EWHC 226 (Admin)

Keenan V Woking Borough Council [2017] EWCA Civ 438.

New World Payphones Ltd v Westminster City Council [2019] EWCA Civ 2250.

R (Smolas) v Herefordshire Council [2021] EWHC 1663 (Admin)

RELEVANT SITE HISTORY

PL/2026/0157 – Change of use of agricultural land to form a private equestrian sand paddock with associated fencing and muck trailer together with the erection of a stable block and creation of ancillary hard standing for parking. Application Refused

REPRESENTATIONS

There is no statutory requirement for the publicity of prior approval applications relating to agricultural development undertaken pursuant to Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, the application has not been publicised by the Local Planning Authority.

ANALYSIS

The application is for prior notification for the erection of an agricultural building under Schedule 2 Part 6 Class A (Agricultural Development on Units of 5 Hectares or more) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Scope of the Prior Approval Process

The matters reserved for the Local Planning Authority's approval under paragraph A.2 of Class A are limited to the siting, design, and external appearance of the proposed development. The question as to whether the development is reasonably necessary for the purposes of agriculture is not merely an objective matter but involves an element of planning judgement (Keenan v Woking Borough Council [2017]) based on the available information and the balance of probabilities.

On an application for the determination as to whether prior approval is required, the Local Planning Authority is bound to determine whether the development in question is permitted by the provisions of the Order under the relevant Class. Only where the development falls to be permitted by the Order does the matter of prior approval of siting, design, and external appearance arise.

The onus rests with the applicant to demonstrate, on the information submitted, that the proposal falls within the scope and provisions of the Order. Where the applicant fails to provide sufficient, unambiguous evidence, the Local Planning Authority is justified in refusing permission.

Compliance under Part 6 Class A of the GPDO

Development is permitted under Class A for the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of—

- (a) works for the erection, extension or alteration of a building; or
- (b) any excavation or engineering operations,

which are reasonably necessary for the purposes of agriculture within that unit.

It is well established that the burden of demonstrating that a proposed development benefits from the provisions of the GPDO rests with the applicant. It is their responsibility to provide sufficient justification and evidence as to what is being applied for and why this is lawful under the provisions of the GPDO; without such information, the Local Planning Authority may be justified in refusing the application.

Principally, in order to benefit from the provisions of Class A to Part 6 of the GPDO, the proposed development must be carried out on agricultural land comprising an agricultural unit of 5ha or more in area – it is widely accepted that such holding need not be contiguous, however all land within the holding must form part of the agricultural workings of that holding and must be reasonably necessary for the purposes of agriculture within that unit.

Agriculture is defined within the 1990 Act:

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

In addition, for the purposes of Part 6, Paragraph D.1 defines agricultural land as land which, before the development is carried out, is land in use for agriculture for the purpose of trade or business. It follows that land which is not in active agricultural use as part of a qualifying trade or business at the time of the application does not benefit from the rights conferred by Part 6 of the Order. In particular, development will not fall within the provisions of the Order where the agricultural activity has not yet commenced or is being undertaken as a hobby rather than as part of a genuine agricultural trade or business.

The application is supported by a Supporting Statement which outlines that the wider agricultural unit spans some 75ha, being principally located approximately 2.5 miles away from the application site. Insufficient information has been provided in relation to this wider agricultural holding however to prove that such a holding exists; no holding plan has been supplied in the application submission that indicates the location of the wider holding and the extent of such. Whilst a DEFRA holding number has been provided, this in and of itself is insufficient to prove that such a holding exists or its scope and is therefore not determinative alone. Furthermore, there is some ambiguity surrounding the size of the

wider agricultural holding. The Supporting Statement indicates that this holding extends to some 75ha, however the application form indicates that the holding is some 30ha in size. Whilst both figures would exceed the threshold, the discrepancy highlights the reliability of the evidence supplied and in the absence of a holding plan or other concrete evidence, the applicant has failed to demonstrate that a) such an agricultural holding exists and its extent and b) that the application site itself forms part of that holding as required by Class A to Part 6 of Schedule 2 of the Order.

Furthermore, whilst the supporting statement indicates that “the holding operates as a genuine and active agricultural enterprise” no information has been supplied to the Local Planning Authority—such as in the form of financial statements or order history—to determinatively prove that such an agricultural holding exists and operates as a “genuine and active agricultural enterprise”, nor what kind of agricultural work occurs on the land.

Turning to the parcel of land which is the subject of this application. Class A notes that the development must be reasonably necessary for the purposes of agriculture within this unit. The application submission indicates that the building would be utilised for storage of machinery, vehicles, and fodder associated with the agricultural works. The application submission indicates that as existing, given the land is separated from the wider holding by 2.5 miles, the applicants must move heavy machinery between the site and wider holding along the public highway which is slow. Whilst it is not disputed that such movement would be slow, it is unclear how the storage of machinery on this parcel of land would ease that—one would still be required to move machinery between the site and wider holding in an identical fashion to as existing—given the site is located 2.5 miles from the wider holding.

In respect of whether the development is reasonably necessary, a previous application was submitted for a Change of Use of the land to private equestrian stables and was refused by the Local Planning Authority in May 2026 (PL/2026/0157). Within this application, the land was described as being for private, non-commercial equestrian use. No reference was made to the land forming a wider 75ha agricultural holding and therefore it is unclear how the development could be reasonably necessary. This directly conflicts with the application submission and, consistent with the definition of “agricultural land” in Paragraph D.1, indicates that the parcel of land was not in use for agriculture as part of a trade or business.

In respect of the building itself, this would be a large structure, and insufficient information has been provided in relation to whether a building of such size is reasonably necessary for the carrying out of works. The floor plans indicate 100m³ of storage space for the storage of hay created on 10 acres of land (to which the applicant concludes is the size of the parcel of land in question, however this is discussed below in A.1(a)), however the Local Planning Authority has been provided no evidence that hay is produced on this parcel of land, nor that such volume of hay being produced would necessitate a building of considerable size as the one proposed.

On the basis that the information is not sufficiently clear to demonstrate that an agricultural holding exists, or that a building of such scale is required the submitted information failed to demonstrate that the proposed use of the building is reasonably necessary for the uses presented. The applicant has therefore failed to demonstrate that the building is reasonably necessary for the purposes of agriculture on this unit. Consequently, the applicant has failed to demonstrate that the proposed development

falls within Class A to Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

To benefit from permitted development under Schedule 2, Part 6, Class A, there should also be an assurance that the development complies with the requirements of paragraph A.1.

Development is not permitted if:

a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area

The application submission indicates that the parcel of land is located 2.5 miles from the wider holding, therefore the application site comprises a separate parcel of land under A.1(a).

The submitted location plan indicates that the site is some 1.5ha in size (when measured at 1:2500) and the Supporting Statement indicates that the plot is some 10 acres in size (approx 4.04ha). Notwithstanding the discrepancies, the application site appears to extend beyond 1ha in size. It is noted, however, that the size of the land is inconsistent across applications, however. The application form for the previously refused application asserts the area to be 2352sqm (approx 0.235ha) which, whilst not determinative of the A.1(a) threshold, reinforces the uncertainty surrounding the extent of the land genuinely in agricultural use as part of a trade or business.

b) it would consist of the erection or extension of any agricultural building on an established agricultural unit (as defined in paragraph X of Part 3 of this Schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class A(a) begins;

No part of the immediate curtilage has been subject to any such documented change of use under the above legislation over a period of 10 years ending with the date on which development under Class A(a) begins.

c) it would consist of, or include, the erection, extension or alteration of a dwelling;

The development does not include the erection, extension, or alteration of a dwellinghouse.

d) it would involve the provision of a building, structure, or works not designated for agricultural purposes

The building would be designated for agricultural purposes.

e) the ground area which would be covered by -

i. any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations; or

ii. any building erected or extended or altered by virtue of class A, would exceed square 1000 metres, calculated as described in paragraph D.1(2)(a) of Part 6.

The area of the building would fall below the 1000sqm threshold. No other development appears to have been carried out on this land under Class A.

f) the height of any part of any building, structure or works within 3 kilometres of the perimeter of an aerodrome would exceed 3 metres;

The building would not be within 3km of an aerodrome.

g) the height of any part of any building, structure or works not within 3 kilometres of the perimeter of an aerodrome would exceed 12 metres;

The building would not be within 3km of an aerodrome and would not exceed 12m in height.

h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road;

Bury and Rochdale Old Road to the north is the closest metalled trunk/classified road. The development would not be within 25m of this.

i) it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, or structure or an excavation used or to be used for the accommodation of livestock or for 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;

The submitted information outlines that the building is used for agricultural purposes comprising storage of hay and agricultural machinery, and is not for the accommodation of livestock or storage of slurry or sewage sludge. The proposal therefore complies in this regard.

j) It would involve excavation or engineering operations on or over article 2(4) land which are connected with fish farming; or

The development would not be on or over article 2(4) land and is not connected with fish farming.

k) any building for storing fuel for or waste from a biomass boiler or an anaerobic digestion system-

i. would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or

ii. is or would be within 400 metres of the curtilage of a protected building

The application submission indicates that the proposed building will be used to store agricultural machinery and hay bales. As such, based upon the available information, the development does not include provision for storing fuel for or waste from a biomass boiler or an anaerobic digestion system.

Siting and Design

Paragraph A.2 of Class A provides that development is permitted subject to a determination by the Local Planning Authority as to whether its prior approval is required in respect of the siting, design, and external appearance of the development.

For the reasons above, the application submission has not demonstrated that the proposed development would be permitted development, and therefore the prior approval process is not engaged and there is no requirement for the Local Planning Authority to assess those matters reserved for the prior approval process.

CONCLUSION

The burden of proof rests firmly with the applicant to demonstrate that the proposed development falls within the scope of permitted development rights granted by the GPDO. The application submission in this instance has failed to provide sufficient unambiguous evidence to demonstrate the existence of a 5ha agricultural unit, an active agricultural business or trade, or that the proposed building is reasonably necessary for the purposes of agriculture.

As the applicant has failed to demonstrate compliance with the provisions of Class A to Part 6 of Schedule 2 of the Order, the Local Planning Authority is not satisfied that the proposal constitutes permitted development.

Recommendation: Refuse

Refusal(s) (1)

- 1 The Local Planning Authority is not satisfied that the development meets the definitional requirements of Class A to Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The application submission has failed to demonstrate, on the information submitted, that the application site forms part of a wider agricultural holding in excess of 5ha, that an agricultural trade or business is in operation on the holding, or that the proposed development is reasonably necessary for the purposes of agriculture within that unit. The application submission has failed to demonstrate therefore that the development would benefit from permitted development rights under Class A and full planning permission would be required.

For the avoidance of doubt, this decision relates to the following plans/documents:

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- Application Form
- DWG No. ML/PS/6514 (Proposed Floor and Elevation Plans)
- Location Plan
- Planning Statement