

Officer Report

Case Reference: NOT/2026/0617
Location: Land adjacent to 1 Gorses, Bury, 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It should be noted that permitted development rights afforded by Part 6 of Schedule 2 of the GPDO are not withdrawn by reason of the site's location within the Green Belt.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

NOT/2026/0446 – Prior approval application for the erection of an agricultural storage building. 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.

Background

The application is a resubmission of an earlier refused application for the same development, NOT/2026/0446. The previous application was refused on the basis that the application submission had failed to demonstrate, on the information submitted, that the application site formed part of a wider agricultural holding, that a genuine agricultural trade or business was in operation on the holding, or that the proposed building was reasonably necessary for the purposes of agriculture within that holding.

The present application is accompanied by a covering letter and Planning Statement prepared by ML Planning Consultancy Ltd, together with further supporting material identified as appendices A to G.

Officers have considered the resubmission and further material in full. It is accepted that the reference in the earlier Officer Report to a discrepancy between 75 hectares and 30 hectares arose, at least in part, from confusion between acres and hectares. Notwithstanding, the reason for refusal of that application did not hinge on this discrepancy.

The reframed operational rationale for the building (that storage at the point of need reduces unnecessary transportation) is also accepted as a reasonable proposition in principle, and the assessment below does not proceed on the earlier reading that the operational requirement for the development was to reduce unnecessary transportation between the holding.

On the balance of the material provided in this submission, it is now accepted that Woodhouse Farm operates as a wider agricultural holding and that this holding exceeds 5ha in size.

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.

Paragraph D.1 further provides that "agricultural land" means land which, before the development is carried out, is land in use for agriculture for the purposes of a trade or business. It follows that development will not fall within Class A where the parcel of land to which the building will be constructed on is not, at the time of the application, in use for agriculture as part of a qualifying trade or business.

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;

The two matters for consideration in this resubmission are (a) whether the building is reasonably necessary for the purposes of agriculture within the unit and (b) whether the application site is agricultural land as described by Paragraph D.1; that is, land which is, before the development is carried out, in use for agriculture for the purposes of trade or business. Each is considered in turn below.

(a) Whether the building is reasonably necessary

The Planning Statement confirms that seasonal harvesting operations (such as mowing, rowing and baling) are undertaken by agricultural contractors. That is accepted and is standard practice for livestock farms of this scale. It follows, however, that the machinery for which storage is said to be required is not the specialist harvesting machinery use to produce the forage (which would generally arrive with the contractors and leave with them), but the machinery retained by the applicant for year-round holding management (pasture topping, chain harrowing, fencing, bale transportation and general maintenance) which the applicant asserts themselves at Section 8 of the Planning Statement.

The applicant's case for the necessity of the building rests on the operational role it would play in supporting the holding. It is not the role of Officers to prescribe the dimensions of an agricultural building, to insist a smaller structure may suffice, or to demand an inventory of the items to be stored. Offices, however, are required to reach a planning judgement on whether the building is reasonably necessary for the purposes of agriculture within the holding, and the onus rests with the applicant to advance a clear operational rationale for the building on which that judgement can be formed. The proposed building measures approximately 13.7m by 9.1m, with an eaves height of 3.6m and a ridge height of 4.8m; Officers are satisfied that this falls within the limits prescribed by the Order.

Notwithstanding this, the reliability of the operational rationale to which the building is reasonably necessary is unclear. The Planning Statement prepared by ML Planning Consultancy LTD states, at Section 8, that seasonal mowing, rowing, and baling operations are undertaken by agricultural contractors, that the applicant does not own specialist harvesting machinery because *“the ownership of specialist harvesting machinery would not be economically justified”*, and that the machinery to be stored is that retained by the applicant for year-round holding management: pasture topping, chain harrowing,

fencing, livestock husbandry, bale transport, and general maintenance. The subsequent Supporting Statement written by the applicant, Mr. Spence, states the opposite: that mowing, tedding, raking and baling are operations undertaken by the wider agricultural enterprise, and that the machinery used to carry out these activities represents a *"considerable investment"* and *"an essential part of the farming business"*. Furthermore, it asserts that the building is to provide secure storage for *"mowing, balling and handling machinery"*. The submitted floor plan is consistent with the latter position, showing a mower, rowler, and baler amongst the items to be accommodated in the building.

The two positions both cannot be correct; the applicant either does or does not own the harvesting machinery on which a substantial part of the storage case rests. Such is the operational rationale for the building on which the reasonably necessary test must be judged, and the operational rationale is fundamentally at odds with itself. Officers are therefore unable to identify a clear and unambiguous rationale for the building.

The forage element of the proposal also subject to similar ambiguity and difficulty. The submitted floor plan indicates approximately 100 cubic metres of storage for hay produced on 10 acres of land. The further Supporting Statement asserts that approximately 240 round bales of forage are produced annually on this parcel across two cuts of silage and haylage. Even the more generous of those figures is unsupported by documentary evidence directed specifically at this parcel of land (the invoices described at Appendix E as substantiating mowing, rowing, and baling operations are, on inspection, veterinary invoices as discussed below). Officers do not seek to substitute their own calculation of forage yield for that put forward by the applicant. Officers observe, however, that the applicant's own case as to the quantum of forage requiring storage on this parcel is neither internally consistent nor externally corroborated.

Taking the material as a whole and giving the applicant the benefit of the more expansive accounts as to what is to be stored, the operational rationale for the building has not been shown to be reliable. The question of whether the building is reasonably necessary for the purposes of agriculture involves an element of planning judgement (*Keenan v Woking Borough Council* [2017]). On the material provided, and on the balance of probabilities, Officer judgement is that a clear and consistent rationale for the necessity of the building has not been established. It is pertinent to note that Officers do not conclude that the building is too large, but conclude that the application submission has not shown, on a coherent account of the operations it is to serve, that it is reasonably necessary.

(b) Whether the application site is agricultural land within Paragraph D.1

Paragraph D.1 requires that the land be, before the development is carried out, in use for agriculture for the purposes of a trade or business. That definition attaches to the land, not merely to the applicant or the wider agricultural holding: an outlying parcel does not qualify because the owner runs a

qualifying farm elsewhere. The parcel itself be in use for agriculture as part of a qualifying trade or business.

On the balance of the further material now provided (including the CPH registration, the holding plans, references to livestock, and the descriptions of the farming activities undertaken) it is accepted that Woodhouse Farm operates as an agricultural enterprise. What the application submission does not establish, however, is that the application site itself forms part of this agricultural trade or business.

It is acknowledged that the Supporting Statement provided by the applicant does make a more direct claim as to the use of this parcel than the earlier submission did. In it, Mr. Spence states that the holding *"forms an important component of our overall farming operation and is actively managed for both grazing and forage production"*. and that approximately 240 round bales of forage are produced annually across two cuts of silage and haylage. Such assertion, however, is without corroboration. No documentary or photographic evidence has been provided that would tie the claimed forage production, or the claimed grazing, to this parcel. The applicant does not, in the statement, address the formal description of this land as being for private, non-commercial equestrian use. The weight therefore that can be given to the statement is limited.

At Section 5 of the Planning Statement, the applicant identifies independent third-party evidence and documentation said to accompany the application and to demonstrate that the holding is actively managed as a genuine agricultural enterprise for the purposes of trade and business.

The additional information supplied identifies Appendix D as veterinary invoices confirming the ongoing management of cattle and alpacas. The material at Appendix D is dated 2023.

Appendix E is described as agricultural contractor invoices confirming mowing, rowing, and bailing operations. The material at Appendix E is not agricultural invoices; it comprises further veterinary invoices already provided at Appendix D.

Appendix F is identified as *"Invoices for agricultural fencing and associated infrastructure improvements."* No material has been included in the submission at Appendix F.

Appendix G is identified as photographs demonstrating forage production, hay making, grassland management, and agricultural machinery working on the holding. The material at Appendix G comprises of two photographs: one which appears to show a parcel of land and one whose subject is not clearly identifiable due to the quality of the photograph, making the subject matter ambiguous, however appears to show a grassy hill. There are no photographs of machinery, no photographs identifying the location depicted as this parcel, and no photographs of haymaking or forage-production as the statement implies.

Crucially, neither photograph contains date or time stamps, or context to verify that they represent the application site. Furthermore, in the event that Officers were to assume that the photographs represent the application site, the mere act of mowing a parcel of land does not, in itself, represent that the land is actively occupied for the purposes of a commercial agricultural trade or business. Grass cutting is a standard maintenance practice for various rural land uses, including private equestrian paddocks (which was the stated intended use of this land under the previously refused application PL/2026/0157).

Officers make no assumption as to how the discrepancies between the description of the Appendixes given and the material actually appended have arisen. Officers only observe that the evidential case advanced in Section 5 of the Planning Statement is, on the face of the submission, not supported by the material appended to it. Officers have determined the application on the material actually before the LPA rather than the material the application states is attached.

The distinction between agricultural activity and agricultural trade or business is directly addressed in the recent appeal decision at Moorside Farm, Wardle, Rochdale (APP/P4225/W/25/3375119) which concerned a materially similar application under the same provisions of the Order (Class A). The Inspector held that *"the mere presence of livestock, and agricultural machinery on the land is not, in itself, determinative of a commercial agricultural enterprise, as the same features can equally be associated with private animal keeping"*. The Inspector went on to observe that no profitability records, business accounts, or documentation evidencing past or ongoing commercial farming activity had been provided, and that no records such as invoices, grazing agreements, or livestock sales that might demonstrate sale had been supplied. On that basis, and notwithstanding a genuine agricultural context, the Inspector was unable to conclude that the site constituted agricultural land within Paragraph D.1 and dismissed the appeal on that ground.

The parallel with this application is direct. The application submission has provided evidence of a general agricultural context at Woodhouse Farm (CPH registration, livestock, membership of the NFU and the Belted Galloway Cattle Society, and descriptions of farming activities) together with, in relation to this parcel specifically, an assertion in the Supporting Statement that 240 round bales of forage are produced annually. What has not been provided is any of the categories identified in Moorside of capable of establishing commerciality; no profitability records, no business accounts, no sales invoices or documentation of livestock sold, no grazing agreements or tenancy records referable to this parcel of land specifically, and no contemporaneous documentation of forage sold or otherwise commercially disposed of. The material at Appendix D consists of veterinary records dated 2023 and addressed to Woodhouse Farm which, on the reasoning of the Moorside decision at Paragraph 11, is equally consistent with the private keeping of animals. The invoices described at Appendix E as substantiating the mowing, rowing, and bailing operations, and by extension the commercial character of the production, are absent.

Crucially, the two photographs at Appendix G, without location or timestamp information, are not capable of demonstrating that the activity depicted (whatever it may be) took place on the application site rather than elsewhere on the wider holding; even if taken at face value, these photographs do not evidence forage production, haymaking, or machinery use on this parcel. Taken as a whole, no material has been provided that is referable to this parcel of land specifically as an operational component of the commercial enterprise – no evidence of forage produced on this land, no evidence of livestock grazed here, and no operational records or documentation tying activity on this parcel to the wider trade or business.

Against that, Officers have before them the applicants own recent formal description of this parcel. In application PL/2026/0157, made only months before the previous prior notification, the applicant described the land as being for private, non-commercial equestrian use, and did not suggest that it formed part of any wider agricultural holding. This is a matter for the applicant to address, however the description remains the most recent contemporaneous statement by the applicant as to the character of the use on this parcel and is therefore directly relevant to the requirement under Paragraph D.1.

Weighing the material now provided, and having regard to both the site history and the approach taken in Moorside Farm, Officer judgement is that the applicant has not, on the balance of probabilities, demonstrated that the application site is agricultural land within the meaning of Paragraph D.1 of the Order – that is, land which, at the time of the application, was in use for agriculture for the purpose of trade or business.

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.

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 provisions of the Order and therefore benefits from permitted development rights under the GPDO. The application submission in this instance has failed to provide sufficient unambiguous evidence to demonstrate that the proposed building is reasonably necessary for the purposes of agriculture within the unit and has failed to demonstrate that the application site is agricultural land within the meaning of Paragraph D.1 of the Order. The application has therefore failed to show that the proposed development would fall within the provisions of Class A of Part 6 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The prior approval process under A.2 of the Order is therefore not engaged, and no assessment of siting, design, or external appearance is required.

For the avoidance of doubt, the Local Planning Authority has determined the application on the material submitted with it. Where the Planning Statement refers to material said to accompany the application, which is not in fact present, or which does not correspond to the material actually appended, the Local Planning Authority has proceeded on the basis of the information before it.

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 proposed building is reasonably necessary for the purposes of agriculture within the unit, or that the application site is agricultural land within the meaning of Paragraph D.1 of Part 6 (that is, land which, before the development is carried out, is in use for agriculture for the purposes of a trade or business. The proposal has therefore not been shown to benefit from Permitted Development Rights under Part 6, Class A, and full planning permission would be required.

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

- Application Form
- Covering Letter
- Planning Statement
- Location Plan
- DWG No. ML/PS/6514 (Proposed Floor and Elevation Plans)
- Supporting Statement
- Photo Mock-Ups
- Appendices A-G