
Delegated Date:	08/02/2021	Application Number:	2020/10193/PA
Accepted:	22/12/2020	Application Type:	Permitted Development Commercial from May 2013
Target Date:	16/02/2021		
Ward:	Sutton Walmley & Minworth		

Wiggins Hill Farm, Wiggins Hill Road, Sutton Coldfield, Birmingham, B76 9QE

Prior Approval for the erection of a building for Agricultural or Forestry use

Recommendation

Prior Approval Required and to Refuse

1. Proposal

- 1.1. This is a prior notification application for the proposed erection of an agricultural storage building, consisting of an implement store and a fertilizer store with an attached spray store. The building would be constructed in an "L" shaped design with a pitched roof ranging in height from 8.64 metres to 9.64 metres), with three roller shutters. It would be constructed from reinforced natural grey fibre cement sheeting and the walls would be dark green PVC coated box profile steel sheeting.
- 1.2. The dimensions on the plans regarding the proposed footprint do not correspond with the dimensions contained within the accompanying supporting information and this matter will be discussed in more detail within the report.

2. Site & Surroundings

- 2.1. The application site refers to an existing farm house and associated agricultural buildings for arable crops and one field for permanent pasture. The site is within Peddimore Core Employment Area. Wiggins Hill Farm House is a Grade II Listed Building.

3. Planning History

- 3.1. None.

4. Consultation/PP Responses

- 4.1. Local Councillor's and MP consulted and site notice displayed:
- 1 letter received raising no objection to the proposal in principle but wished to draw the Council's attention to the PRoW (SC19) which passes through the construction site
 - 1 objection received stating that the proposed building straddles the public right of way.

4.2. Regulatory Services – No objection.

4.3. Legal Services – Request additional information or refusal.

5. Policy Context

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

6. Planning Considerations

6.1. This is a prior approval application for a new building for agricultural storage building at Wiggins Hill Farm, Wiggins Hill Road, Sutton Coldfield and will be assessed in accordance with Class A, Part 6, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015.

6.2. In assessing this application, I have considered the advice provided by the Council's Legal Services Department.

6.3. The proposed 'L' shaped agricultural building for storage purposes is identified within the supporting statement as being 43.15 metres in length by 18.28 metres in width (main element of the building) and 12.66 metres in length by 19.14 metres in width (smaller element of the building) which would create a total footprint area of 1031.09m².

6.4. However, the plans do not correspond with the dimensions above and illustrate the building as being 43.15 metres in length by 18.94 metres in width (main element of the building) and 12.66 metres in length by 9.4 metres in width (smaller element of the building) which would create a total footprint area of 936.26m².

6.5. The discrepancy in the footprint area is a significant factor in the determination of this application and will be discussed in more detail under the relevant section below.

6.6. Matters to be considered

6.7. In order for prior approval to be granted it must first be shown that the proposed development meets with the requirements of Class A of Part 6 of Schedule 2 to the GPDO.

- The building must be on agricultural land comprised in an agricultural unit of 5 hectares or more

The applicant has stated that the agricultural unit is 243 hectares and has been in agricultural use since 1960. The applicant has not provided a plan of the agricultural unit or any evidence of the agricultural use. However, the appearance of the land and buildings in the vicinity of the application site suggest that agricultural use is well established on the land.

- The erection of the building is reasonably necessary for the purposes of agriculture within that unit.

The applicant has provided a statement stating that the building is required for the storage of machinery, implements and fertiliser to use on the land due to the proposed road closure and we can assume that this is the stopping up of part of

Peddimore Lane and part of Wishaw Lane pursuant to the Stopping up of Highways (West Midlands) (No. 11) Order 2020. It contends that as a result of the road closure there will no longer be a direct route to the land at Wiggins Hill which will result in a 9.5km journey from the other farm to Wiggins Hill being impractical, costly and increasing trips on the road. It does not, however, give an address for the other farm.

Given that no address is given for Hurst Green Farm and a plan showing the extent of the agricultural unit has not been provided, it is difficult to assess the journeys that may be required to carry out the agricultural activities. In addition, the relocation of the farming equipment at Wiggins Hill Farm could require the farming equipment to travel to Hurst Green Farm to be used at that location and no justification has been given as to the size of the building and whether a building of that size is reasonably necessary. As such, further information should be requested from the applicant regarding the need for the new building including a plan showing the extent of the agricultural unit, the location of the existing building and the details regarding the need for a building of the size proposed.

Once the council is satisfied as to the need for the agricultural building, the exclusions to Class A (paragraph A.1 of Part 6 of Schedule 2) need to be considered:-

- (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;

This is confirmed on the application form.

- (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;

The applicant has confirmed that this is the case, however, without a plan showing the extent of the agricultural unit, this cannot be verified.

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

The building is not proposed to be a dwelling and is not attached to any existing buildings.

- (d) it would involve the provision of a building, structure or works not designed for agricultural purposes;

The building appears to have been designed for agricultural purposes.

- (e) the ground area which would be covered by—

(ii) any building erected or extended or altered by virtue of Class A, would exceed [1,000 square metres] 1 , calculated as described in paragraph D.1(2)(a) of this Part;

The size is calculated on the basis of the following:-

the ground area which would be covered by the proposed development, together with the ground area of any building (other than a dwelling), or any structure, works, plant, machinery, ponds or tanks within the same unit which

are being provided or have been provided within the preceding 2 years and any part of which would be within 90 metres of the proposed development;

The applicant has confirmed that no new building has been erected on the agricultural unit within the last 2 years.

In assessing this element of the application, the Council's legal department have used the calculations of the proposed footprint area within the accompanying supporting statement, which states that the proposed building would have a footprint area of 1031m². As mentioned previously, the footprint dimensions within the supporting statement do not correspond with the submitted plans which illustrate the proposed footprint area as being approximately 936m². This discrepancy is absolutely crucial in the assessment and subsequent determination of this application because if the building exceeds the 1000m² threshold, the building cannot be erected pursuant to Class A and would require planning permission. As such the applicant will need to address this matter.

- (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 proposed building will not be within 3 kilometers 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 proposed building has a ridge height of 8.63 metres.

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

The proposed building is not within 25 metres of a trunk road or classified road.

- (i) 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 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;

Whilst the proposed building would be within 400 metres of the curtilage of a protected building (dwelling) the uses proposed do not conflict with this restriction.

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

The operations are not connected with fish farming.

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

The proposed building is not proposed for the storage of fuel, waste from a biomass boiler or an anaerobic digestion system.

Paragraph A.2 sets out the conditions subject to which the planning permission is granted as follows:-

- (1) Development is permitted by Class A subject to the following conditions—
- (a) where development is carried out within 400 metres of the curtilage of a protected building, any building, structure, excavation or works resulting from the development are not used for the accommodation of livestock except in the circumstances described in paragraph D.1(3) of this Part or for the storage of slurry or sewage sludge, for housing a biomass boiler or an anaerobic digestion system, for storage of fuel or waste from that boiler or system, or for housing a hydro-turbine;

It is noted proposed that the building is used for the uses listed.

- (b) where the development involves—
- (i) the extraction of any mineral from the land (including removal from any disused railway embankment); or
- (ii) the removal of any mineral from a mineral-working deposit, the mineral is not moved off the unit;

No mineral works are proposed.

- (c) waste materials are not brought on to the land from elsewhere for deposit except for use in works described in Class A(a) or in the provision of a hard surface and any materials so brought are incorporated forthwith into the building or works in question.

This will be for the applicant to comply with during construction.

- (2) Subject to sub-paragraph (3), development consisting of—
- (a) the erection, extension or alteration of a building;

...

is permitted by Class A subject to the following conditions—

- (i) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building, the siting and means of construction of the private way, the siting of the excavation or deposit or the siting and appearance of the tank, as the case may be;

I will refer to this in greater detail below.

- (ii) the application must be accompanied by a written description of the proposed development and of the materials to be used and a plan indicating the site together with any fee required to be paid;

The application appears to comply with this requirement save that it is not clear what the GPDO means by 'site' in this context and no plan has been provided showing the extent of the Agricultural Unit.

- (iii) the development must not begin before the occurrence of one of the following—
- (aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
- (bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the applicant's application of their determination that such prior approval is required, the giving of such approval; or
- (cc) the expiry of 28 days following the date on which the application under sub-paragraph (2)(ii) was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;

- (iv) where the local planning authority give the applicant notice that such prior approval is required, the applicant must—
 - (aa) display a site notice by site display on or near the land on which the proposed development is to be carried out, leaving the notice in position for not less than 21 days in the period of 28 days from the date on which the local planning authority gave the notice to the applicant; and
 - (bb) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in sub-paragraph (iv)(aa) has elapsed, the applicant is treated as having complied with the requirements of that sub-paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement;

A site notice has been displayed and evidence of this has been provided.

- (v) the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out—
 - (aa) where prior approval is required, in accordance with the details approved;
 - (bb) where prior approval is not required, in accordance with the details submitted with the application; and

This sets out the details approved or deemed approved for the purposes of defining the permission.

- (vi) the development must be carried out—
 - (aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given;
 - (bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (d)(ii).

This sets out the timescale for implementing any prior approval.

- (3) The conditions in sub-paragraph (2) do not apply to the extension or alteration of a building if the building is not on article 2(4) land except in the case of a significant extension or a significant alteration.

The application is not for an extension or alteration.

- (4) Development consisting of the significant extension or the significant alteration of a building may only be carried out once by virtue of Class A(a).

The application is not for an extension or alteration.

- (5) Where development consists of works for the erection, significant extension or significant alteration of a building and—
 - (a) the use of the building or extension for the purposes of agriculture within the unit permanently ceases within 10 years from the date on which the development was substantially completed; and
 - (b) planning permission has not been granted on an application, or has not been deemed to be granted under Part 3 of the Act, for development for purposes other than agriculture, within 3 years from the date on which the use of the building or extension for the purposes of agriculture within the unit permanently ceased, then, unless the local planning authority have otherwise agreed in writing, the building or, in the case of development consisting of an extension, the extension, must be removed from the land and the land must, so far as is practicable, be restored to its condition

before the development took place, or to such condition as may have been agreed in writing between the local planning authority and the developer.

This is an ongoing condition.

- (6) Where an appeal has been made, under the Act, in relation to an application for development described in sub-paragraph (5)(b), within the period described in that paragraph, that period is extended until the appeal is finally determined or withdrawn.

This is an ongoing condition.

- (7) Where development is permitted by Class A(a), within 7 days of the date on which the development is substantially completed, the developer must notify the local planning authority in writing of that fact.

This is an ongoing condition.

Prior approval matters

The following matters are subject to prior approval:-

a. Siting

In terms of its proposed siting, this would depend on whether the applicant can satisfactorily demonstrate that this would be acceptable in this location. No such information has currently being submitted.

I have considered the position of the PROW and the Council's Legal Services Department have advised me that if this has not been stopped up by the date that any Prior Approval is issued then it is suggested that an informative is added to any decision reminding the applicant of the need for the PROW to be stopped up or diverted before the development can commence. I agree with this view.

b. Design

I raise no concern in terms of its proposed design which would reflect a typical agricultural building.

c. External appearance

I raise no concern with the external appearance and green colour finish which would be acceptable in principle in this location

7. Conclusion

- 7.1. The discrepancy regarding the dimensions of the footprint of the building illustrated on the plans and also within the accompanying supporting statement which do not correspond and these dimensions are critical to the assessment of the application in terms of whether prior approval is required or not. Furthermore, information is required regarding the need for the proposed building, including a plan showing the full extent of the agricultural unit at Hurst Green Farm, the location of the existing buildings and details regarding the need for a building of this site in this location. Without this information, it is evident that this application cannot be assessed in accordance with Schedule 2, Part 6, Class A of The Town and Country Planning (General Permitted) (England) Order 2015 (as amended).

8. Recommendation

8.1. Prior approval required and to refuse.

Reason for Refusal

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- 1 Insufficient information has been submitted to satisfactorily demonstrate the need for the proposed agricultural building in this location. A plan is also needed to show the full extent of the farm. Furthermore, the dimensions of the footprint of the building illustrated on the plans do not correspond with the dimensions contained within the accompanying supporting statement. Therefore, it is not possible to assess whether this proposal constitutes permitted development under Schedule 2, Part 6, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
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Case Officer: Daniel Illott