



**TOWN AND COUNTY PLANNING ACT 1990 – SECTION 192
APPLICATION FOR CERTIFICATE OF LAWFULNESS OF PROPOSED
DEVELOPMENT
CONSTRUCTION OF AGRICULTURAL STORAGE BUILDING AND
ASSOCIATED ACCESS ROAD (RESUBMISSION)
LAND EAST OF CASTLE END ROAD, HARE HATCH, READING
RG10 9TL**

**STATEMENT OF EVIDENCE TO VERIFY THE APPLICATION
NOVEMBER 2024**

1.0 Introduction

- 1.1 This statement of evidence to verify the application has been prepared in support of an application for a Lawful Development Certificate (LDC) under section 192 of the Town and Country Planning Act 1990, as amended, in relation to the proposed construction of an agricultural storage building and an associated access road on land east of Castle End Road, Hare Hatch, Reading RG10 9TL. The application is submitted on behalf of Shute End Holdings Limited, the landowners.
- 1.2 The application seeks a certificate in relation to the construction of an agricultural storage building measuring 20.0 m length, 8.0 m width, 3.3 m height to eaves and 4.2 m height to ridge and a road 390 m long and 3.8 m wide extending from the existing vehicular access onto Castle End Road.
- 1.3 The application is made on the grounds that the proposed development constitutes permitted development for agricultural purposes under Schedule 2, Part 6, Class A to the Town and Country Planning (General Permitted Development) Order 2015.

2.0 Background to the Application

- 2.1 The application is made following the approval of Prior Notification application ref. 200360 for the erection of an agricultural storage building and Prior Notification application ref. 200361 for a proposed road which were granted by the Council on 10 and 11 March 2020 respectively.
- 2.2 The Council's decision notice on each Prior Notification approval states that the Council considered the proposals do not constitute permitted development under Schedule 2, Part 6, Class A, because it has not been demonstrated that the building or road are to be used for an existing agricultural trade or business and therefore it is considered that they are not reasonably necessary.
- 2.3 Following discussions with the case officer, Brian O'Donovan, it was agreed that the best way forward would be to submit a lawful development certificate application with evidence of previous agricultural use.

3.0 Grounds for the Application

- 3.1 Section 192(1) to the TPCA 1990 states if any person wishes to ascertain whether (a) any proposed use of buildings or other land, or (2) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the LPA specifying the land and describing the use or operations in question.
- 3.2 Section 192(2) states that if on an application under this section the LPA are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application they shall issue a certificate to that effect.
- 3.3 Section 192(4) states that the lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change before the use is instituted or the operations are begun in any of the matters relevant to determining such lawfulness.
- 3.4 This LDC application therefore is made on the grounds that the proposed development constitutes permitted development for agricultural purposes under Schedule 2, Part 6, Class A to the Order.

4.0 Evidence to support the application

4.1 The application seeks an LDC in relation to proposed works consisting of an agricultural storage building and an associated access road running between the existing and established site entrance on Castle End Road and the proposed building, all to be used for agricultural purposes namely the growing of grapes.

4.2 Schedule 2, Part 6, Class A to the Order provides agricultural permitted development rights for the carrying out of works for the erection, extension or alteration of a building or any excavation or engineering operation on agricultural land comprised in an agricultural unit of 5 hectares or more which are reasonably necessary for the purposes of agriculture within that unit.

History of agricultural use of the land and agricultural unit

4.3 'Agricultural land' is defined at D1.(1) as land which, before development permitted by this Part is carried out, is land used for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouse or garden.

4.4 'Agricultural unit' is defined at D1.(1) as agricultural land which is occupied as a unit for the purposes of agriculture including any dwelling or other building on the land occupied for the purpose of farming the land by the person who occupies the unit, or any dwelling on that land occupied by a farm worker.

4.5 The Council commented that it has not been demonstrated that the building or the road are to be used for an existing agricultural trade or business. It suggested that because of the current status of the land, which is not currently being used for agricultural purposes, it was not sure whether the established and lawful use of the land was for agricultural purposes.

4.6 The application is accompanied by the Statutory Declaration of [REDACTED] dated 13 November 2024 which provides sworn evidence in relation to the use of the land the subject of the application (which is referred to as the Agricultural Land). [REDACTED] affirms that he purchased the neighbouring property of Winton Manor in 1997 and that between 1997 and January 2017 he personally saw the land the subject of this application being used for arable purposes including Wheat, Barley, Rape and Linseed. In January 2017 he purchased the Agricultural Land from [REDACTED] of [REDACTED]

██████████ provides a copy of the Bidwells sales particulars which describes the Agricultural Land as “productive arable land” and “good quality arable land” and includes photographs taken in September 2016. ██████████ affirms that these photographs show the Agricultural Land being farmed for arable purposes in the same way as it has been used since he purchased Winton Manor in 1997.

4.7 ██████████ sworn evidence explains that the reason he bought the Agricultural Land was to establish a grape growing business. He describes the work that was undertaken on the Agricultural Land during 2017 and that it was then used by ██████████, a sheep farmer, from 2018 onwards.

4.8 ██████████ is therefore able to affirm that the Agricultural Land has been used for wholly agricultural purposes, namely arable crops and the grazing of sheep, since at least 1997 and that there have been no alternative uses on the land.

4.9 ██████████ also explains the work that has been undertaken to assess the suitability of the Agricultural Land for the growing of grapes and the preparation of costings and budgets for the project. This provides evidence that the proposals are reasonably necessary for the purposes of agricultural activities that might reasonably be conducted on the unit in question.

4.10 ██████████ sworn evidence is corroborated by the Witness Statement of ██████████ dated 7 November 2024 and the Witness Statement of ██████████ dated 8 November 2024. ██████████ is a sheep farmer and he explains how he has used the Agricultural Land to graze his 110 ewes and rearing lambs as part of his pasture rotation system variously since 2018 to the current date. ██████████ passes the Agricultural Land on his daily journeys to and from work as he has lived and worked at opposite ends of Castle End Road since 1999. He confirms that he saw the land being used for growing of arable crops until around late 2016 and that since then he has seen sheep grazing on the land at various times between 2018 and the current date.

4.11 ██████████ refer to incidents involving the sheep escaping from the field into the neighbouring garden of the property known as ██████████. A Witness Statement of ██████████, owner of that property, dated 8

November 2024 is also submitted with the application to provide further corroboration of the evidence.

- 4.12 The above evidence confirms that the Agricultural Land has been used for agricultural purposes since at least 1997 and that there have been no alternative uses of the land. The Bidwells sales brochure including photographs taken in September 2016 is useful in showing the previous agricultural use of the land. The land has been used for both arable and livestock farming.
- 4.13 The proposals therefore involve the erection of a building and an engineering operation to construct a road on agricultural land comprised in an agricultural unit of 5 hectares or more and accordingly they meet the definitions in D.1(1).
- 4.14 The growing of grapes, i.e. vine cultivation, constitutes agriculture for the purposes of the TCPA. It follows that the proposal to grow grapes and the associated building and road would not involve a material change of use of the established agricultural use of the land.

Reasonably necessary for the purposes of agriculture within that unit

- 4.15 The permitted agricultural development rights provided by Schedule 2, Part 6, Class A to the Order allow works and operations which are reasonably necessary for the purposes of agriculture within that unit. The officer reports to the prior approval applications comment that as there is no evidence of agricultural activities currently being undertaken and therefore there is no requirement for the construction of the building or the road. The above evidence demonstrates that the lawful and established use of the land is for agricultural purposes and the agricultural use has been continuous since at least 1997 although there are some fallow and rotation periods as with most agricultural uses.
- 4.16 As explained in the prior approval application for the building, the proposed building is considered reasonably necessary for the purposes of agriculture (growing of grapes on 12.8 ha of agricultural land) as it would provide the following which are considered reasonable requirements for the scale of the agricultural activity:

- (1) Storage for two agricultural tractors
 - (2) Storage for associated machinery including fertilizer spreader, inter-vine cultivator, vine sprayer, Lipco tunnel sprayer, vine trimmer, pre-pruner, and trailer.
 - (3) Racks/storage for other associated tools and equipment including hand trimmers, spraying equipment (backpacks and spray guns), manual and electric pruning equipment.
 - (4) Racks/storage of vine netting, harvesting crates, sealable bins for transporting grapes, spraying chemicals, personal equipment such as overalls, masks, gloves, boots etc.
 - (5) Tanks for liquid insecticide/herbicides etc.
- 4.17 The prior approval application for the road explained that the proposed gravel road is considered reasonably necessary to provide a safe and suitable all-weather surface access for agricultural vehicles and machinery to serve the proposed building in association with the proposed growing of grapes on 12.8 ha of agricultural land.
- 4.18 The Council's position on the previous LDC application was that it accepted the land is an agricultural unit and used for the purposes of an existing agricultural trade or business (rotational sheep grazing), but because this is not the business for which the building is required (grape growing), and that business has not yet commenced, it considered the building did not benefit from Patr 6 permitted development rights.
- 4.19 Subsequently I discussed the Council's decision with Brian O'Donovan (the case officer) and [REDACTED] and we had an exchange of several emails in July and August 2020. I provided evidence in the form of an extract from the section dealing with the GPDO and prior approval appeal in the PINS Inspector's Training Manual (**Appendix A**) which provides clear advice (based on case law) on the question of whether the agricultural trade or business for which the building is required has to have commenced in order to benefit from Part 6 agricultural permitted development rights. The relevant paragraph states:

“8. There is no requirement that the building is intended to accommodate an existing agricultural activity provided there is an agricultural use of the land and the building is reasonably required for agriculture; Jones V Stockport MBC 1984 JPL 274. The applicant is expected to demonstrate the need for the development.”

- 4.20 The PINS Inspector’s Training Manual states there is no requirement that the building must be to accommodate an existing agricultural activity, provided there is an agricultural use on the land. In other words, whilst an agricultural trade or business must exist, it does not have to be the agricultural trade or business which the building is sought, and there is nothing in the wording or definitions of Part 6 that indicates otherwise. Paragraph 9 of the Manual confirms that the assessment can be based on a future agricultural use. In the Clarke judgement (Clarke v SSE [1993] JPL 32) referred to in the Manual, the Courts rejected the proposition that the building must be reasonably necessary for the purposes of the agricultural use at present being carried on in the unit, and instead held that the building had to be reasonably necessary for the purposes of agricultural activities that might reasonably be conducted on the unit in question.
- 4.21 This clearly shows that whilst there must be an existing agricultural trade or business, it does not have to be the particular agricultural activity for which the building is required. It can be a future (proposed) agricultural use.
- 4.22 In my emails to [REDACTED], I gave the example of a farmer who runs an agricultural trade or business involving sheep but wants to diversify and intends acquiring some pigs and requires a building for them in which case based on the above the part 6 rights would apply. I also drew attention to a very similar case in application ref. 162488 on land at Upper Culham, Henley Road, Remenham Hill, where the Council approved an application for prior determination for a proposed agricultural building and track associated with the proposed grazing of sheep on agricultural land which up until that point had been used for arable purposes. In that case, the Council considered the proposed use of the building did not have to be for the existing agricultural activity.
- 4.23 [REDACTED] subsequently consulted with the Council’s legal section and received advice which he said was largely consistent with my views (i.e. that the Council

was wrong to have refused the previous LDC application on the grounds that it did) and invited a resubmitted application.

- 4.24 A further application was not submitted the time due to personal circumstances of the applicants and the impact of COVID. They are now ready to progress with their grape growing business again and hence this further lawful development certificate application is being submitted to seek confirmation that the proposals for an agricultural building and access road relating to a grape growing business would be permitted development under Class 6 of the GPDO.

5.0 Conclusion

- 5.1 The Courts have held that the relevant test of the evidence on such matters is "the balance of probability". The applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability".
- 5.2 The evidence submitted with this application comprises a sworn Statutory Declaration made by [REDACTED] and two signed witness statements. These have been updated since the previous application to refer to the continuing use for sheep grazing over the last few years. The Statutory Declaration is also supported by other independent evidence and I have noted the Bidwells sales brochure which includes photographs.
- 5.3 The evidence demonstrates that the Agricultural Land has been used for agricultural purposes since at least 1997 and there have been no alternative uses of the land. There is no known contrary evidence.
- 5.4 The proposed development consists of the carrying out or works for the erection, extension or alteration of a building or any excavation or engineering operation on agricultural land comprised in an agricultural unit of 5 hectares or more which are reasonably necessary for the purposes of agriculture within that unit, and for which the relevant Prior Notifications have been approved, and therefore is considered permitted development within Schedule 2, Part 6, Class A to the Order. It is therefore considered that an LDC should be issued.

- 5.5 The applicant would be pleased to provide additional information or corroboration if required by the Council. Originals of the Statutory Declaration and the two signed Witness Statements can be provided on request.

Paul Dickinson
BA (Hons) MRTPI MRICS MCMI
13 November 2024

LIST OF APPENDICES

Appendix A Extract from the PINS Consolidated Inspector's Training Manual
(Version 45, 27 February 2024)

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(Version 45, 27 February 2024)



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Annex D: Part 6 – Agriculture and Forestry

- 1 Advice in this and indeed the other Annexes applies to Enforcement and LDC appeals as much if not more than prior approval appeals. Any given paragraph may be relevant to Enforcement appeals but not prior approval appeals, or vice versa, or to both.
- 2 If there is a dispute as to whether development is permitted under Part 6, the first questions may be whether the site is 'agricultural land' and in an 'agricultural unit' as discussed [in the main part of this chapter above](#). The next matter to establish is whether the development would be of the type permitted under Class A(a) and (b), or Class B(a) to (g).
- 3 From there, if you find that there is or would be a breach to a limitation to PD as set out in paragraphs A.1 or B.1; it would be appropriate to go straight to that point; *Fayrewood Fish Farms Ltd v SSE & Hants CC* [1984] JPL 267. It is only necessary for there to be failure on one limitation in Part 6 for development to be unlawful.
- 4 In such a situation, even if it is questioned as to whether the development would be 'reasonably necessary for the purposes of agriculture', the following text could be used: 'Even if I were to accept the contention that the development was reasonably necessary...it would not benefit from Part 6 because...'
- 5 It is critical to show clear and logical analysis of each test in Part 6, and conclude on each appropriate, particularly where the representations are less than adequate in identifying the correct criteria.
- 6 The types of agricultural development for which prior notification is required under Part 6, Class A are set out at paragraphs A.2(2)(a) to (d) and further qualified at A.2(3). The limits to the size of floorspace permitted under Classes A and B have been extended by the [Town and Country Planning \(General Permitted Development\) \(England\) \(Amendment\) Order 2018](#).

Classes A & B: 'reasonably necessary'

- 7 For a building to be 'reasonably necessary for the purposes of agriculture within that unit', the structure itself and uses carried on within it must be reasonably necessary for the use of the land as an agricultural unit. The whole agricultural unit is the reference point.
- 8 There is no requirement that the building is intended to accommodate an existing agricultural activity, provided there is an agricultural use of the land and the building is reasonably required for agriculture; *Jones v Stockport MBC* [1984] JPL 274. The applicant is expected to demonstrate the need for the development.
- 9 The Inspector is not obliged to contemplate some possible but unlikely agricultural activity that is not suggested; *Clarke v SSE* [1993] JPL 32. However, he or she should consider what agricultural use the land might reasonably be put to and take account of more than the applicant's intentions – since they might change, or a future occupier might carry out different activities; *Broughton v SSE* [1992] JPL 550. The assessment can be based on future agricultural use, unlike that for 'agricultural land'.
- 10 The 'reasonably necessary' assessment does not carry with it any connotation of profit or business viability. It also relates to the particular building on the particular unit, as defined at the time, and cannot be justified in terms of some future larger agricultural unit.
- 11 The size and nature of the unit may be crucial, as may be the nature of the proposed building. The size of the building, however, is unlikely to be a determinative factor;