

**SUBMITTED ELECTRONICALLY VIA
PLANNING PORTAL REF PP-13525752**

13 November 2024

Our Ref: PD/KH/18007

Ms Marcia Head
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Dear Ms Head

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

I am submitting an application for a Lawful Development Certificate under S192 of the T&CPA 1990, as amended, in relation to the proposed construction of an agricultural storage building and 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.

The application comprises:

- (1) Lawful Development Certificate Application Form and Certificate.
- (2) Application Drawings:
 - CER-PA-101 – Site and Location Plan (1:1250)
 - CER-PA-102 – Agricultural Building – Plans and Elevations (1:100)
- (3) Statement of Evidence to Verify the Application prepared by Paul Dickinson & Associates, Town Planning and Development Consultants, November 2024
- (4) Statutory Declaration of [REDACTED] dated 13 November 2024
- (5) Witness Statement of [REDACTED] dated 7 November 2024

- (6) Witness Statement of [REDACTED] dated 8 November 2024
- (7) Witness Statement of [REDACTED] dated 8 November 2024
- (8) CIL Additional Information Requirement Form dated 8 November 2024
- (9) Local Planning Authority application fee of £60.00 to be paid electronically by the applicants via the Planning Portal ref PP-13525752.

The application is made following Prior Notification application ref. 200360 for the erection of the agricultural building and Prior Notification application ref. 200361 for the proposed access road. These were both approved by Decision Notices dated 10 March 2020 but the decisions advised that the Council considered the proposal did not constitute permitted development under Schedule 2, Part 6, Class A because it had not been demonstrated that the building is to be used for an existing agricultural trade or business (as the grape growing business had not commenced) and therefore it was considered it was not reasonably necessary.

Following discussions with the case officer, [REDACTED], it was recommended that the best way forward was to submit a lawful development certificate application with evidence of the agricultural use of the land.

A Lawful Development Certificate application 200911 for the same description of development (an agricultural storage building and associated access road) was refused by an undated Decision Notice (although the Council's records show that the application was determined on 4 June 2020). The Council refused the application because it considered (because the grape growing business had not yet commenced) it had not been demonstrated that the proposed development is to be used for an existing agricultural trade or business and it was not satisfied that the proposals were recently necessary for the purposes of agriculture within that unit and that an agricultural unit had not yet been established.

The Council's position 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 Part 6 permitted development rights.

Subsequently, I discussed the Council's decision with [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 appeals in the PINS Consolidated Inspector's Training Manual on the GPDO and Prior Approvals 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.

The 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 makes it clear it can be a future agricultural use.

In the Clarke judgement referred to in the PINS Practice Note, 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.

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.

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.

[REDACTED] subsequently consulted with the Council's legal section and received advice which he said was largely consistent with my views and he invited a resubmitted application.

A further application was not submitted at 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.

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 evidence demonstrates that the 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.

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.

Please do not hesitate to contact me if you require any further information to enable the application to be validated and determined.

Yours sincerely

A solid black rectangular box used to redact the signature of Paul Dickinson.

PAUL DICKINSON
BA (Hons) MRTPI MRICS MCMI