CASE OFFICER'S REPORT

Application Reference:	PL/2023/04808
Application Type:	Prior notification: Building
Site Inspection:	
Consultation ends:	22 November 2023
Case officer:	Hilary Baldwin

Site Address:	Shades Farm, Ashton Road, Minety, Malmesbury, SN16 9QP
Proposal:	Erection of an agricultural storage building for storage of farm equipment
Recommendation:	Prior Approval Refused

Site Description & Proposal

The application seeks to construct an agricultural barn within the farm holding and adjacent to the proposed site for prior notification of a similar farm building.

The barn would measure 18m long by 9m wide. Height to eaves, 3.75m and ridge height 5.04m. The structure would have a steel portal frame with pre-cast panels in colour Jupiter Green. A large roller shutter door is proposed in the northern side elevation and within the eastern end of the southern (front) elevation. A further personnel door is proposed within the western side elevation. The roof would be constructed of pre-cast panels in the same colour as the elevations. The roof would include 4 roof lights to each roof slope.

The new building would be on land known as Shades Farm which extends to approximately 25 acres, approximately 10 hectares.

There is a concurrent submission for a very similar barn to that proposed within this submission and the supporting planning document states that;

3.2 Unit 1 would be for the use of equipment storage, this consists of equipment to cut grass, roll land, turn soil, excavate (maintenance of drainage ditches) and seeding equipment.
3.3 Unit 2 would be open fronted for the use of storing produce, hay, straw and horse bedding

The application

The application is for prior notification for the erection of an agricultural building under Part 6, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Policy Considerations

The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended), Schedule 2, Part 6, Class A.

Planning History

From the planning history held by the Local Planning Authority, part of the wider site has the benefit of various applications in relation to its use as, inter alia, holiday let, stables and

equestrian facilities including an equine exercise arena. The following references do not form a complete or comprehensive site history.

PL/2023/05579 – Single Storey Extension
Approved with Conditions

00/00321/AGN – Agricultural Building for the storage of implements
Approved

N/94/1207/FUL – Change of Use of Land to All Weather Riding Arena
Approved with Conditions

N/93/1656/FUL – Renovation of existing building to provide 3 No Stables
Approved with Conditions

Assessment

Class A permits the carrying out on agricultural land comprising of an agricultural unit of 5 hectares or more of any excavation or engineering operation which is reasonably necessary for the purposes of agriculture within that unit. The land subject of this proposal and the immediately adjoining fields measure approximately 10Ha.

The conditions to Class A include that such development comprising the erection of a building for the purposes of agriculture or any excavation, or engineering operation, are permitted by Class A subject to meeting all the criteria and as to whether the prior approval for the siting, design and external appearance is required. To allow the local authority to consider this the applicant must provide a written description of the proposed development and materials to be used and a site plan.

The proposal has been reviewed based on the information submitted with this application as to whether it looks to meet the criteria under Class A, however, it should be noted that whether the application meets the criteria for permitted development is an issue primarily for the applicant. Only proposals that meet all the qualifying criteria can be developed under this class of the GPDO.

The development is not on a separate parcel of land forming part of the unit which is less than 1 hectare and is therefore not contrary to **A.1 (a).**

The agricultural unit has not benefitted from development under Class Q or S of Part 3 (change of use) of the Schedule and is therefore not contrary to **A.1 (b).**

The development does not consist of or include the erection, extension or alteration of a dwelling and is therefore not contrary to **A.1 (c).**

It is stated that the one of the structures has been designed for the purposes of storing produce, hay and horse bedding. Part A.1 (d) of the legislation states that development is not permitted if the structure, building or works are not designed for agricultural purposes. In this instance, the planning history on the site provides evidence that part of the overall site is turned over to equestrian use and there is evidence that significant parts or perhaps the whole area included

within the 10Ha site has been in such use. Indeed, part of the holding includes a large equine exercise arena and stables. Aerial photography also supports this stance. The proposed use of the building, to store bedding for horses, is consistent with a continued equestrian use.

A recent application PL/2023/05579 (referenced in a preceding section of this report) in relation to development for the holiday property within the site, was supported by way of a Planning Design and Access Statement which at Section 1.6 proposed that the "existing dwelling will be extended for a live in manager and family to look after the livery yard on the site". This therefore clarifies that there is no intention to remove the equestrian use.

The onus is on the applicant to assert that the agricultural use of the land meets the 5Ha threshold and whilst it is known that some of the land is in equestrian use, it is unknown how much of the land is in agricultural use. From the application form and submitted statement there is no reason for the Local Planning Authority to conclude that the application meets the definitional scope of the development.

In referencing a recent court case, "*Smolas v Herefordshire Council"*, Case Reference CO/1877/2020, paragraph 84, it was concluded that a Council is "*entitled to conclude that it had insufficient evidence to satisfy it, as the onus of establishing permitted development was on the Claimant*".

In this particular case, from what is known about the site there is considered sufficient doubt as to the percentage of the site falling into either equine or agricultural use and on the balance of probability, there is considered sufficient doubt that the buildings are reasonably necessary for the purposes of agriculture within the unit. It is therefore considered that the application fails in relation to **A.1 (d).**

The building would measure 18m by 9m with a floor area of 162m2. Details of the structure's design and materials have been submitted within the submitted statement and application form.

The structure would be situated on a parcel of land that exceeds 1 hectare. There is a concurrent application for a very similar sized building which would extend to the same floor area of 162m2. The planning history on the site shows that prior approval was sought and granted for an agricultural barn in 2000 which extends to a floor area of approximately 270m2.

The combined works should both current submissions and the original application be considered would fall below the cumulative criteria of 1000m2 under **A.1 (e)(i).**

The height of the structure does exceed 3m but is not within 3km of the perimeter of an aerodrome and is therefore not contrary to **A.1 (f).**

The height of the works does not exceed 12m and is therefore not contrary to **A.1 (g).**

No part of the development would be within 25m of the metalled part of a trunk or classified road and is therefore not contrary to **A.1 (h).**

The proposal is not for the purposes of livestock accommodation or for the storage of slurry of sewage. The proposal is therefore not contrary to **A.1 (i).**

It does not involve an excavation or engineering operation on or over article 2(4) land in connection with fish farming and is therefore not contrary to **A.1 (j).**

The proposal is not for the storing of fuel or waste from a biomass boiler of anaerobic digestion system and is therefore not contrary to **A.1 (k).**

Design, External Appearance and Siting

Albeit considered that there is insufficient evidence that the structure is reasonably necessary for agricultural purposes under Schedule 2, Part 6, Class A.1 (d), it is considered reasonable for the Local Planning Authority to continue to assess whether its prior approval is required as to the design, external appearance and siting of the proposed works.

On consideration of the submitted details, it is deemed that the siting, design, scale and materials of the proposed building is typical of other agricultural buildings within the rural landscape. The building is positioned so that there would be no unacceptable or significant adverse impact on residential amenities or the character and appearance of the area. There are very limited views from public vantage points.

Accordingly, it is not considered that further details or assessment of the proposal would be required.

Conclusion

On the basis of the above, it is considered that the development conflicts with the criteria as set out within **Schedule 2, Part 6, Class A.1 (d) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).** Whilst its location, scale, design and materials are considered acceptable, it is not considered that there is sufficient information to determine that the structure is reasonably necessary for the purposes of agriculture.

Refusal Reason(s): (1)

1 The submitted information does not establish that the proposed development would be carried out on an agricultural unit with an area of 5 hectares or more, as required in order to benefit from permitted development under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). As a result the local planning authority is not satisfied that the proposed development falls within the scope of development permitted under that Class, or any other Class of the Order.