

APPEAL STATEMENT

Proposed Installation of Biomass Boiler within Existing Agricultural Building

1. Introduction

This Appeal Statement is submitted in support of an appeal against the refusal of an application for a Certificate of Lawfulness in respect of the proposed installation of a biomass boiler within an existing agricultural building at **East Farm, Fovant, Sailsbury, SP3 5JD. REF PL/2026/02583**

The application was refused on the following ground:

“The proposed development does not meet the criteria for permitted development under Schedule 2, Part 14 Class N of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, planning permission is required.”

The appellant respectfully disagrees with this conclusion.

The proposal comprises the installation of a biomass boiler within an existing agricultural building. The building is already established and in agricultural use, and the proposed works do not involve the erection of a new building, replacement or the creation of a materially different use of the land. The biomass boiler is intended to provide heat for the agricultural operation and is ancillary to the existing use of the building and wider agricultural enterprise.

One of the three planning officers which over saw the application commented on the fact that the building was a replacement and would therefore require full planning permission. The building shell has been replaced previously, following the building being condemned by the business's insurers, but utilised the existing structure of the building. The building is therefore not a replacement, and the boiler will be situated within the existing structure on site.

The appeal therefore seeks the reversal of the Council's decision and the grant of the requested Certificate of Lawfulness.

2. The Appeal Proposal

The proposal is for the installation of a biomass boiler within an existing agricultural building.

The boiler would be located internally within the existing building and would utilise the existing building envelope. Any associated flue or external equipment would be limited to that reasonably required to operate the boiler and would be positioned so as to minimise its visual and physical impact and make use of the existing chimney where

possible. However, due to the use of the biomass boiler, the chimney will need to be approximately 3m taller than the existing to comply with building regulations.

The proposal does not involve:

- the construction of a new agricultural building;
- the demolition or enlargement of the existing building;
- the introduction of a residential use;
- a separate commercial use unrelated to the agricultural operation; or
- a material change in the established agricultural use of the site.

The biomass boiler is an item of plant serving the existing agricultural use of the site.

3. Principle of Permitted Development

The Council's reason for refusal relies upon Schedule 2, Part 14, Class N of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

The appellant's position is that the proposal should be considered within the permitted development rights established by the GPDO and, in particular, that the installation of the proposed plant does not amount to development requiring express planning permission in the circumstances of this case.

A Certificate of Lawfulness application is concerned with whether the proposed use or development is lawful in planning terms. It is not an assessment of whether the proposal represents good planning or whether planning permission ought to be granted on its planning merits.

The relevant question is therefore whether the proposed works fall within the applicable permitted development provisions.

4. Relationship with the Existing Agricultural Use

The existing building is set within an established agricultural building associated with the operation of the agricultural holding. The proposed biomass boiler would serve that existing agricultural operation to assist with the drying of crops such as wheat, barley, Oil Seed Rape, hay and straw to help with the harvest and It would therefore not introduce an independent planning use.

The installation should consequently be regarded as ancillary plant associated with the existing use of the agricultural building and site.

The fact that the proposed plant is biomass-fuelled does not, in itself, create a separate planning use. The appropriate consideration is the function and purpose of the

installation in the context of the site as a whole. In this case, the boiler is intended to support the established agricultural enterprise and is therefore directly related to the existing use.

5. Class N and the Proposed Development

The Council has stated that the proposal does not satisfy the criteria of Class N of Part 14.

The appellant considers that conclusion to be incorrect because the proposal must be assessed against the actual characteristics of the development proposed.

In particular, the boiler is to be installed within an existing agricultural building rather than involving the construction of a new building or the introduction of a separate use. The proposed works are limited in nature and principally comprise the installation of plant within an established building.

The Council's decision does not identify which specific requirement or limitation of Class N is said to be breached. This is significant because the refusal simply states that the proposal “does not meet the criteria” without identifying the particular criterion that is not satisfied.

For a certificate of lawfulness determination, it is necessary to identify the precise statutory provision upon which the conclusion rests and demonstrate how the facts of the proposal fail to comply with that provision.

The appellant therefore respectfully submits that the refusal is insufficiently reasoned and that, when the proposal is assessed against the actual wording and scope of the GPDO, the installation should be regarded as lawful.

6. No Material Change of Use

The installation does not result in a material change of use of the building or land, and the building will remain in agricultural use following installation of the biomass boiler which is ancillary equipment serving that use.

There is no intention for the building to become a standalone energy-generation facility or for the site to operate as a separate commercial energy business, this distinction is important to consider avoiding the proposal being viewed as the establishment of an independent biomass power station or commercial energy-generating use. It is for a biomass boiler serving the existing agricultural operation. Accordingly, the installation does not change the planning character of the site.

7. Existing Building and Limited Nature of the Works

The use of an existing building as a drying store is an important characteristic of the proposal as the biomass boiler would be accommodated within the existing agricultural building, thereby avoiding the need for a new standalone structure.

The proposal therefore makes use of existing built development and does not result in the encroachment of a new building into the countryside. Any associated flue would be an operational component of the boiler installation and would be proportionate to the scale of the plant and make use of the existing chimney where appropriate.

The works are consequently limited to the installation of necessary plant and associated infrastructure and do not represent a wider redevelopment of the site.

8. Interpretation of Permitted Development Rights

Permitted development rights are established by the GPDO and should be applied by reference to the wording of the relevant Class, together with its conditions and limitations.

Where the Council considers that a proposal falls outside the permitted development right, the decision should identify the particular element of the proposal that causes it to do so. In the present case, the refusal does not explain whether the Council considers the difficulty to arise from:

- the nature of the biomass boiler;
- its location within the agricultural building;
- the purpose for which the boiler is to be used;
- the associated flue or external equipment;
- the scale of the installation;
- the nature of the existing building; or
- another specific limitation or condition within Class N.

Without identifying the particular provision relied upon, the appellant is unable to see the factual basis upon which the Council has concluded that planning permission is required. The appellant's position is that none of the proposed works, individually or collectively, creates a development requiring express planning permission in the circumstances described.

9. Purpose and Function of the Biomass Boiler

The purpose of the boiler is to provide heat to support the existing agricultural operation to assist with the drying of crops on site. The plant is therefore functionally connected to the established use of the site, is the proposal is not intended to establish a new planning use.

The boiler should accordingly be assessed as part of the agricultural operation rather than as an independent use of land.

10. Conclusion

For the reasons set out above, the appellant respectfully submits that the Council has erred in concluding that the proposed installation does not meet the relevant permitted development provisions.

The proposal is limited to the installation of a biomass boiler within an existing agricultural building. It does not involve the creation of a new building or a material change of use, and the plant is directly ancillary to and in support of the established agricultural use of the site.

The refusal does not identify the specific criterion or limitation of Schedule 2, Part 14, Class N that is said to be breached.

The appellant therefore respectfully requests that the appeal be allowed and that a Certificate of Lawfulness be issued confirming that the proposed installation is lawful.

Appellant: East Farm Partnership

Site: East Farm, Fovant, Sailsbury, SP3 JD

Application reference: PL/2026/02583

Date: 8th September 2026