

Delegated Decision

Sign off Sheet

Ref. No:	DM/24/3073	Case Officer:	Peter Davies
Application Type:	Lawful Development Certificate -Proposed		
Proposal:	Proposed formation of hardstanding for use in association with existing agricultural building		
Site:	Land West Of Yewtree Farm, London Road, Balcombe, West Sussex, , , ,		
Validation Date	17 Dec 2024	Overall Expiry Date:	4 Feb 2025
Pre-Commencement Conditions Required:		Pre-Com Conditions Date Agreed:	
Recommendation:	Permission	Recommendation Date:	5 Feb 2025
Target Date:	11 Feb 2025	Recommending Officer Signature:	Peter Davies

Date Legal Agreement Completed: (if applicable)		No of Representations:	0
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Signed and Agreed By:	Stephen Ashdown	Date:	11 Feb 2025
Comments:			

MID SUSSEX DISTRICT COUNCIL

DM/24/3073

**Land West Of Yewtree Farm, London Road, Balcombe, West Sussex, , ,
Proposed formation of hardstanding for use in association with existing agricultural building
Mr Andrew Coveney**

REPRESENTATIONS

None received.

PARISH COUNCIL OBSERVATIONS

None received.

INTRODUCTION

This application seeks a lawful development certificate for the formation of a hardstanding to use in association with an existing agricultural building.

PLANNING HISTORY

None relevant.

SITE AND SURROUNDINGS

The site is located on the western side of London Road, north of Balcombe, within the countryside and the High Weald Area of Outstanding Natural Beauty. It is in agricultural use, with an agricultural building on site, with gated access to the east and stables immediately south. Land levels fall away in all directions, though the western view is truncated by woodland. The applicant's main farmhouse (a Grade II listed building) is located around 430m to the north, visible from the site, as is the barn permitted in 2020. The site is located within 400m of two listed buildings to the south - Kelsey House and 3 London Road.

APPLICATION DETAILS

The proposal is for the formation of a level hardstanding area to the west of an existing agricultural building to be used in association with the building. The ground slopes down to the west and will require infilling of earth of approximately 2.60 metres at the highest part. On the top will be hardstanding surface consisting of 0.30 metre chalk base with 0.20 metres crushed concrete surface. The hardstanding area will be approximately 20 metres by 30 metres in size with an earth bank of approximately 5.0 metres around 3 sides to level out with the field.

LEGAL FRAMEWORK

This application is to establish whether the proposed development would benefit from permitted development rights and will be a legal decision; planning merits cannot be taken into account when considering this application.

The proposal will be tested against the relevant criteria of Part 6 Class A Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), as detailed below:

Permitted Development

A. The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of—

- (a) works for the erection, extension or alteration of a building; or
 - (b) any excavation or engineering operations,
- which are reasonably necessary for the purposes of agriculture within that unit.

Development not permitted

A.1 Development is not permitted by Class A if—

- (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;
- (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;
- (c) it would consist of, or include, the erection, extension or alteration of a dwelling;
- (d) it would involve the provision of a building, structure or works not designed for agricultural purposes;
- (e) the ground area which would be covered by—
 - (i) any works or structure (other than a fence) for accommodating livestock or any plant or machinery arising from engineering operations would exceed 1,000 square metres; or
 - (ii) any building erected or extended or altered by virtue of Class A would exceed 1,500 square metres, calculated as described in paragraph D.1(2)(a) of this Part;
- (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;
- (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;
- (h) any part of the development would be within 25 metres of a metalled part 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;
- (j) it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming;
- (k) any building for storing fuel or waste from a biomass boiler or an anaerobic digestion system—
 - (i) would be used for storing waste not produced by that boiler or system or for storing fuel not produced on land within the unit; or
 - (ii) is or would be within 400 metres of the curtilage of a protected building; or
- (l) the erection or extension of a building would be carried out on land or a building that is, or is within the curtilage of, a scheduled monument.

Conditions

A.2— (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;
- (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;
- (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.

(2) Subject to sub-paragraph (3), development consisting of—

- (a) the erection, extension or alteration of a building;
 - (b) the formation or alteration of a private way;
 - (c) the carrying out of excavations or the deposit of waste material (where the relevant area, as defined in paragraph D.1(4) of this Part, exceeds 0.5 hectares); or
 - (d) the placing or assembly of a tank in any waters,
- 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;
 - (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;
 - (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;
 - (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;
 - (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).

(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.

(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).

(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.

(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.

(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.

ASSESSMENT

It has been shown that the site is within an existing agricultural unit that exceeds 5 hectares and the proposal does not relate to the extension or erection of an agricultural building or residential dwelling.

The proposed works are not within 3km of an aerodrome, they are not within 25 metres of a trunk or classified road and the site is also not located within Article 2(4) land.

The works do not involve the extraction of mineral from the land or the removal of mineral from a mineral-working deposit.

The proposed works does not relate to any works for accommodating livestock or any plant or machinery.

The planning statement confirms that the proposed materials to be imported would not constitute waste. Further to this the proposed importation of materials will be done so in compliance with The Definition of Waste: Development Industry Code of Practice Version 2, also known as the CL:aire Protocol.

The planning statement also sets out that the material to be used will be sourced from development works currently taking place on Rocky Lane, Haywards Heath. On this basis, it is advised that the material to be sourced in relation to this project has already been confirmed as comprising 'non-waste' material and been used as part of a comparable agricultural land development project, using the direct transfer scenario, within proximity of the application site. An 'independent Qualified Person' is also to confirm the use of the material, as 'non-waste', responsible for the CL:aire protocol declaration. This will comprise a fully audited trail of source and transfer material, including evidence that the material has been the subject of a detailed Site Investigation Report and Soil Analysis, to confirm it comprises clean inert material that is suitable for implementation in land development projects.

Paragraph 50 Reference ID: 28-050-20141016 of the Planning Practice Guidance states that *'There exist a number of issues which are covered by other regulatory regimes and waste planning authorities should assume that these regimes will operate effectively.'* The definition of waste and the CL:aire Protocol are covered by the Environment Agency and through the environmental protection regime rather than through planning legislation. As stated in the Planning Practice Guidance the LPA should assume that the environmental protection regime operate effectively and that provided the proposed materials comply with the CL:aire Protocol they should not be considered waste.

The proposal is not for the erection, extension or alteration of a building, the formation or alteration of a private way, the carrying out of excavations or the deposit of waste material or the placing or assembly of a tank in any waters. As such an application for prior approval is not required.

CONCLUSION

In conclusion, the proposed development is deemed to comply with the applicable permitted development criteria as set out within Class A of Part 6 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and therefore a certificate can be issued.

Decision: Permission

Case Officer: Peter Davies