



## Appeal Decision

Hearing Held on 17 August 2017

Site visit made on 17 August 2017

**by David Reed BSc DipTP DMS MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 19 September 2017**

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**Appeal Ref: APP/P1425/W/17/3168691**

**Highbury Farm, Markstakes Lane, South Chailey, East Sussex BN8 4BS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Michelle Durnford against the decision of Lewes District Council.
  - The application Ref LW/16/0644, dated 28 July 2016, was refused by notice dated 19 August 2016.
  - The development proposed is a steel framed building similar to the existing barn located within the farm.
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### Decision

1. The appeal is allowed and approval is granted under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 for a steel framed building similar to the existing barn located within the farm at Highbury Farm, Markstakes Lane, South Chailey, East Sussex BN8 4BS, in accordance with the terms of the application, Ref LW/16/0644, dated 28 July 2016, subject to the following condition:
  - 1) The building hereby permitted shall be constructed with the same external materials and be the same colour as the existing barn on the site, and shall have a ridge height no higher than that building.

### Main Issues

2. The dispute concerns one of the requirements of the 2015 Order for permitted development rights under Class A. In addition, prior approval has been refused under paragraph A.2(2)(i) of the Order.
3. Consequently, the main issues in this case are:
  - whether the building would be reasonably necessary for the purposes of agriculture within the agricultural unit;
  - and, if so, whether prior approval should be given for the siting, design and external appearance of the building.

## Reasons

### *Whether necessary for the purposes of agriculture within the unit*

4. Highbury Farm comprises nine fields totalling about 9.6 hectares to the south of Markstakes Lane which are used for grazing and making hay<sup>1</sup>. The farm is essentially a livestock enterprise with on average about 100 sheep together with a small number of pigs and chickens. Some incidental firewood is also produced from the trees and woodlands on site. The farm provides full time employment for both Mr and Mrs Durnford with Mrs Durnford working just one day per week elsewhere.
5. The land was purchased in late 2012 to establish a new farming enterprise following the break-up of the previous farm. Initially a modest 40 sq m livestock shelter was erected towards the centre of the holding followed by an application for prior approval for a large 465 sq m barn, the maximum under permitted development rights. This was refused on the grounds that it was not demonstrably required by the farm and would be unduly prominent<sup>2</sup>. Approval was subsequently given for a smaller barn 160 sq m in size near the Markstakes Lane frontage and this was built in early 2016<sup>3</sup>.
6. This barn was rapidly filled up with machinery, hay and firewood leading to the current application for prior approval for a second 160 sq m barn, identical to the first and to be sited immediately alongside. Like the current barn it would be 3 m to the eaves and 4.5 m to the ridge, with green cladding and grey roof, and would be used for similar storage purposes.
7. There is no dispute that Highbury Farm is an established agricultural unit over 5 hectares in size and thus benefits from Class A permitted development rights. In addition, the proposed barn, together with the existing barn, would not exceed the cumulative size limit of 465 sq m. However, at 9.6 hectares, the farm is relatively small, and the Council argue that the second barn is needed to support off-site contracts rather than agriculture on the farm itself, and thus does not qualify as permitted development.
8. The evidence for this is an email dated 17 August 2016 which stated that the business had seven contracts to cut hay and maintain hedges in Plumpton, East Chilton and Cuckfield. In a few cases the hay may be brought back to Highbury Farm for onward sale. However, at the hearing the appellants clarified that these contracts were only casual agreements and was essentially grass cutting or haymaking for small landowners without their own equipment, not work for other farms. During 2017 the requests for such services had been limited, and to date only two half days had been spent on outside work. The reality was that the workload on the main farm meant there was little spare capacity for external contracting to be a significant part of the business.
9. The farm accounts were not made available at the hearing but it is clear the main farm income is derived from the sale of sheep and a small number of pigs, maximised by dealing directly with the abattoir, together with the sale of hay, some timber, and the Government basic payment scheme. In total, the income from the farm is only modest for even one person but it is acceptable to

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<sup>1</sup> The farm also currently has use of about 10 acres of grazing land near Newick but has no rights of tenure.

<sup>2</sup> Ref LW/15/0629

<sup>3</sup> Ref LW/15/0762

the appellants and there is no evidence that external contracting income is a fundamental and necessary part of the overall enterprise.

10. A full itemised list of the equipment purchased for use by the business was supplied and the various items were identified during the site visit, some stored in the existing barn and some left outside. The amount of machinery on the farm is certainly impressive, including primary and secondary tractors, two compact tractors, a Land Rover, several trailers, and a wide range of specialist equipment for occasional use including various mowers, baler, digger, hedge cutter and log splitter. The Council's agricultural adviser accepts that all these items would be used on the farm at some point during the year, but considers that most farms of the size of Highbury Farm would operate with much less equipment, relying on hired-in machinery or the use of contractors for specialist tasks. This would avoid the need for a second barn.
11. Whilst this may be the case, the appellants' strategy is to be as self-sufficient as possible, both producing their own winter feed from the holding and having the full range of machinery to avoid reliance on others. This is a legitimate if perhaps less common approach and involves the need for more space to store feed and equipment. The machinery list demonstrates that the floorspace required to store all the items would be 142 sq m, more than the size of the existing barn, and this excludes manoeuvring space, space to store winter feed, excess hay for sale and drying logs. The site visit confirmed that the existing barn was basically full, with further machinery having to be left outside or kept under a makeshift shelter.
12. It is important for valuable farm machinery to be kept indoors to maximise its useful life and for security reasons. The appellant also requires more space to store hay for winter feed and/or sale as the lack of storage space currently constrains haymaking on the farm leading to a loss of income. The appellants estimate that about 565 bales were spoilt by rain or went unharvested for lack of storage in 2016, and the problem was apparent again on the date of the site visit - the hay crop in some fields was ready for harvesting but there was little storage space left in the barn<sup>4</sup>.
13. There is consequently little doubt that the second barn would be fully utilised to store farm machinery and hay. However, the need for more space arises primarily from farming activities on Highbury Farm not as a result of off-site contracting work. There is no evidence that machinery has been bought specifically for contracting; there is no dispute it is all used at Highbury Farm albeit in some cases infrequently. There is also no evidence that off-site contracting is, or is planned to be, an important part of the business.
14. The residual argument is that the amount of machinery within the business is excessive and well above that usually owned by a farm of this size. However, within reason, the way the farm is operated is a matter for the appellants. Permitted development rights for agriculture are generous, a holding of five hectares being entitled in principle to a building of 465 sq m. In this case, with the second barn, the 9.6 hectare farm would have buildings totalling 360 sq m. The 'reasonably necessary' criterion should therefore be interpreted flexibly to allow for the efficient working of Highbury Farm as actually operated by the appellants rather than how it might be operated.

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<sup>4</sup> The livestock shelter is not available for overflow storage as it is needed during bad weather for animal welfare reasons and simultaneous use for feed or bedding storage would conflict with health regulations.

15. For these reasons the proposal should be regarded as reasonably necessary for the purposes of agriculture within the agricultural unit and is thus permitted development under Class A of the 2015 Order.

*Siting, design and external appearance*

16. The Council accepted at the hearing that the purpose of prior approval for the siting, design and external appearance of the building is to ensure that the details of the proposal are acceptable once the principle of the development has been agreed.
17. In relation to siting, the second barn would be located parallel to the existing with a gap of about 3 m between the two buildings<sup>5</sup>. This would add to the visual impact of the existing barn which can be seen from Markstakes Lane and the two residential properties opposite despite the substantial roadside hedge. However, it would be located on the far side, away from the lane, thus limiting most of the additional impact to the view when approaching along the lane from east or west. The position of the barn near the farm entrance allows for ease of access during the winter months when the land becomes waterlogged and avoids the need for a new access track which would itself be intrusive. A site elsewhere on the holding would also fragment the buildings.
18. There is no dispute that to minimise the impact of the two barns on the landscape the second should have a similar appearance to the first. This should be secured by condition, together with a requirement that the ridge height of the new building should be no higher than the existing barn as the land concerned rises gently.
19. For these reasons, and subject to this condition, prior approval should be given for the siting, design and external appearance of the building. The proposal is acceptable having regard to Core Policy 11 of the Lewes Joint Core Strategy 2016 and saved Policy ST3 of the Lewes District Local Plan 2003 which seek to ensure proposals conserve the character of the rural environment and respect the local area generally.

**Conclusion**

20. Having regard to the above the appeal should be allowed.

*David Reed*

INSPECTOR

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<sup>5</sup> Reduced distance confirmed at the hearing.

**APPEARANCES**

FOR THE APPELLANT:

Michelle Durnford                      Appellant

Nicholas Durnford                      Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Sheath BSc DipTP MRTPI      Senior Planning Officer, Lewes District Council

David Hall MRICS                      Agricultural Consultant

INTERESTED PERSONS:

Brian Royston                          Local Resident