

SOUTH HAMS DISTRICT COUNCIL

Notes to accompany Decision Notices

Building Regulations - This decision is not a decision under the Building Regulations and the applicant should ensure that all necessary approvals for the same proposal and same plans are obtained before commencing any work on the site. See www.devonbuildingcontrol.gov.uk for further information.

Discharge of Conditions – If your application has been approved with conditions then any pre-commencement conditions must be discharged before work starts. The fee to discharge conditions is per request, not per condition, and it is therefore more cost effective to discharge all conditions at once. Listed Building Consents and Conservation Area Consents are exempt from fees.

Amending your permission (only applies to planning permissions) – If you want to change some details of your planning permission and it is a very small change you can apply for a Non Material Amendment. Larger changes may need a Variation of Condition application to amend the plans condition or a new Planning Application.

Adherence to approved plans/conditions - Failure to adhere to the details of the approved plans or to comply with the conditions contravenes the Town and Country Planning Act 1990 and enforcement action may be taken.

Right of Appeal - further *information about appealing can be found at*

http://www.planningportal.gov.uk/uploads/pins/procedural_guide_planning_appeals.pdf

If you are aggrieved by a decision to refuse permission or to grant it subject to conditions you can appeal to the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at www.planningportal.gov.uk/planning/appeals/ Appeals must be made on the correct form relating to the type of application you submitted. Information provided as part of the appeal process will be published online. In some circumstances the Planning Inspectorate may refuse to consider an appeal.

Planning Appeals (Section 78 of the Town and Country Planning Act 1990).

- Householder appeals must be made within **12 weeks** of the date of this notice.
- Minor Commercial Appeals must be made **within 12 weeks** of the date of this notice.
- Other planning appeals must be made within **6 months** of the date of this notice.
- **Certificate of Lawfulness Appeals** (Section 195 of the Town and Country Planning Act 1990) - There is no time limit for submission of an appeal.
- **Listed Building Consent or Conservation Area Consent Appeals** (Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990). Appeals must be made within **six months** of the date of this notice.

Advertisement Consent Appeals (Regulation 17 of the Town and Country Planning (Control of Advertisements) Regulations 2007).

- Appeals must be made within **8 weeks** of the date of this notice.

High Court Challenge/Judicial Review

As there is no third party right of appeal the only route available for an objector to challenge a decision is through the courts. Legal advice should be sought before considering this option.

Purchase Notices

If the Local Planning Authority or the Planning Inspectorate refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council requiring them to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Disabled Persons

Where any planning permission granted relates to buildings or premises to which the public are to be admitted (whether on payment or otherwise) or to premises in which persons are employed to work, your attention is drawn to Sections 4, 7 and 8a of the Chronically Sick and Disabled Persons Act, 1970 and to the British Standards Institutions Code of Practice for Access for the Disabled to Buildings.

Dated this 14 August 2023

(Application Ref: 2455/23/AGR)

Patrick Whymer
Head of Development Management Practice
for and on behalf of the Council



In any correspondence please quote application number: **2455/23/AGR**

AGRICULTURAL DETERMINATION

REFUSED

Town and Country Planning Act, 1990

Town and Country Planning (Development Management Procedure)
(England) Order, 2015

Application No.: 2455/23/AGR

Date Received as valid: 17 July 2023

Proposal: Application to determine if prior approval is required for a proposed extension for a general purpose agricultural building measuring 41.1m (L) x 24.3m (B) x 7.5m height to ridge

Location: Land At Sx 800 396, Kellaton

Agent:

Mr James Wotton
Greenslade Taylor Hunt
8 Erme Court
Leonards Road
Ivybridge
PL21 0SZ

Applicant:

Mr & Mrs I Foale
LT Foale & Son
Higher Kellaton Farm
Kellaton
TQ7 2ES

The **South Hams District Council** hereby confirm that **FULL PLANNING PERMISSION IS REQUIRED** for the proposed development at the address shown above, as described by the description shown above, and in accordance with the information that the developer provided to the local planning authority shown below for the following reasons:

1. Article 3(1)(5)(a) of the Town and Country (General Permitted Development)(England) Order 2015 (as amended) (GPDO) states that *'The permission granted by Schedule 2 does not apply if— (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful;...'*

The proposed development is for an extension to an existing building, part of which was constructed after May 2020 and is unlawful. Therefore, the permission granted by Class A, Part 6, Schedule 2 of the GPDO does not apply.

2. Insufficient information has been provided for the Local Planning Authority to be satisfied that the extension, which is of a large size measuring 41.1m (length) x 24.3m (breadth) x 7.5m (height), is reasonably necessary for the purposes of agricultural with the agricultural unit as required by Class A(A), Part 6, Schedule 2 of the GPDO.
3. Notwithstanding the points made in parts 1 and 2, were the development considered to be permitted by Class A, Part 6, Schedule 2 of the GPDO, prior approval would be required for the siting, design and external appearance of the development, and the following information would be requested:

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- Justification for the siting of the proposal in this location and the design of the building (including its size), with reference to the agricultural/forestry needs of the holding and how the development is reasonably necessary for the purposes of agricultural within the agricultural unit.
 - Details of existing and proposed levels, including a site layout plan and section drawings. Levels must be shown relative to a fixed and identifiable datum point which is identified on the plan (the datum point must not be taken from any structure which are to be demolished or can be moved). The site layout plan must show the points at which the cross-section(s) have been taken and the cross sections should extend beyond the site boundary to show how the proposal relates to surrounding surface features, vegetation and topography and how they fit into the landscape context.
 - Landscape and visual impact assessment of the proposal, including any ground works, along with any mitigation in the form a landscaping scheme, and a comparison to other potential sites within the holding in order to ascertain whether the proposed siting represents the least visually intrusive site within the holding.
4. Notwithstanding the points made in parts 1 and 2, Regulation 9 of the Conservation of Habitats and Species Regulations 2010 states that 'competent authority must exercise their functions which are relevant to nature conservation.... so as to secure compliance with the requirements of the Directives.' Accordingly, competent authorities must consider the Directives in making decisions relating to any of their planning functions.

The site lies within the open countryside and there are existing landscape features and buildings which could provide habitat for protected species. In the absence of an ecology report assessing the potential impacts of the development and identifying any required mitigation measures, the Local Planning Authority cannot be satisfied that the development would not harm protected species/habitats.

It is important that you read and understand all of the following **informatives**.

INFORMATIVES

1. This decision relates to the following drawings:

- Location Plan JWW/RJM/311/23/A/LP
- Site Plan JWW/RJM/311/23/A/SP
- Elevations JWW/RJM/311/23/A/ED1
- Floor Plan JWW/RJM/311/23/A/ED2
- Roof Plan JWW/RJM/311/23/A/ED3

2. The applicant is advised that the development proposed does not include any engineering operations to create a hardstanding area/yard area around the extension. If this is required, any future submission should include such area within the red outline on the site location plan and engineering operations should be included within the description of development.

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