



PLANNING REF: 3184/22/PAA

DESCRIPTION: Prior Approval Application for provision of Agricultural tracks following application 2385/22/AGR

ADDRESS: Hendham View Woodleigh TQ7 4DP

20th December 2022

LETTER OF OBJECTION FROM THE SOUTH HAMS SOCIETY

The South Hams Society interest

For the last 60 years, the South Hams Society has been stimulating public interest and care for the beauty, history and character of the South Hams. We encourage high standards of planning and architecture that respect the character of the area. We aim to secure the protection and improvement of the landscape, features of historic interest and public amenity and to promote the conservation of the South Hams as a living, working environment. We take the South Devon Area of Outstanding Natural Beauty very seriously and work hard to increase people's knowledge and appreciation of our precious environment. We support the right development - in the right places - and oppose inappropriate development.

The Society previously wrote to the local planning authority to object to the planning application 2385/22/AGR.

While it is apparent that while the LPA agreed to some of our reasons put forward against the proposal, the Council were still of the opinion that the proposal was permitted development.

The Society stated the following:

*'Paragraph A.1 e(i) sets out that the limitation of 1000 sqm relates firstly to any works or structure **(other than a fence)** for accommodating livestock or any plant or machinery arising from engineering operations*

The legislation specifically lists one exception of a fence, but does not list private ways or tracks.'

The Society wish to bring to the attention of the district council a planning appeal dismissal **APP/X1925/W/20/3256050** for a planning application previously refused by the North Hertfordshire District Council (20/01078/AG).

It was decided that the provision of farm track/s is part of any 1000 square metre limitation of the GPDO.

The Society refer you to paragraphs 4, 5, 6 and 7 of the planning appeal decision.

Charity No 263985

Registered Address: 20 Highfield Drive, Kingsbridge, Devon TQ7 1JR
www.southhamsociety.org | www.facebook.com/SouthHamsSociety/



It seems sufficiently clear to the Society that this proposal for a substantial system of tracks is excluded from the GPDO by the following requirement:

Development not permitted

A1. Development is not permitted by Class A if—

(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;** or
- (ii) any building erected or extended or altered by virtue of Class A,

would exceed 1,000 square metres, calculated as described in paragraph D.1(2)(a) of this Part;.

The Society note that the applicant has become conscious of the extent of the proposal by removing references to the length of tracks only recording that it is to be 5 metres wide.

A 5 metre wide track would exceed the limit prescribed when it goes beyond 200 metres in length. It must be clear to the LPA that the proposed track network does exceed 200 metres and that it is not permitted development and, as a consequence, the application for prior approval should be refused.

We include a copy of the planning appeal APP/X1925/W/20/3256050 and our previous correspondence.

Given the LPA accept our argument and the appeal decision quoted, the Society would be concerned the LPA may well have taken a less than robust stance in previous planning decisions made in respect of permitted development proposals.

We therefore believe a review of the LPA's decisions previously taken should be undertaken.

For and on behalf of the South Hams Society
Richard Howell
Chairman



Appeal Decision

Site visit made on 27 January 2021

by **John Morrison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 February 2021

Appeal Ref: APP/X1925/W/20/3256050

Millbury Farm, Mill End, Sandon, Buntingford SG9 0RN

- 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 (as amended).
 - The appeal is made by Mr J Sapsed against the decision of North Hertfordshire District Council.
 - The application Ref 20/01078/AG, dated 22 May 2020, was refused by notice dated 18 June 2020.
 - The development proposed is an agricultural building for housing cattle, storage of machinery and feed.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would comply with the provisions of Schedule 2, Part 6, Class A of the GPDO with specific regard to the amount of new development.

Reasons

3. The appeal scheme proposes the erection of a new agricultural building, a hardstanding apron in front of it and a three metre wide access track running to it from an existing access adjacent to Mill End.
4. Part 6 of the GPDO defines permitted development under its provisions as the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more (as is the unit subject of the appeal) in area of a) works for the erection, extension or alteration of a building; or b) any excavation or engineering operations. It seems sufficiently clear from this that such works could be either a building or excavation or engineering operations. It could also conceivably be both as there is nothing explicit in the provision of Part 6 that says it could not be.
5. Indeed, Part 6 goes on to say that development is not permitted if 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; or (ii) any building erected or extended or altered by virtue of Class A, would exceed 1000 square metres, calculated as described in

paragraph D.1(2)(a). Paragraph D.1(2)(a) defines ground area as that which would be covered by the proposed development, together with the ground area of any building (other than a dwelling), or any structure, works, plant, machinery, ponds or tanks within the same unit which are being provided or have been provided within the preceding 2 years and any part of which would be within 90 metres of the proposed development.

6. For me, this is explicit that permitted development can be both a building and works and sufficiently implicit, based on the fact it is defined as to what can make up the 1000 square metres, that it should be concerned with a sum total of a given proposal. Or indeed any such that has been carried out within the preceding two years and be within 90 metres of the given proposal. By fault or design, I feel this is sufficiently clear by a common sense understanding of the wording of Part 6.
7. The ground area of the building proposed as part of this submission for prior approval would fall well below the 1000 square metre allowance. However, the scheme also includes the provision of a three metre wide access track of substantial length. Such that it would take the combined total over the permitted 1000 square metres. The provision of an access track could be described as works for the purposes of paragraph D.1(2)(a) and indeed an engineering operation for the purposes of Class A.
8. I note the appellant's comments regarding the allowances for works and engineering operations (hardstanding in this case) in the relevant section of Part 6 concerning units under 5 hectares. However, the submission before me concerns Class A. It has been accordingly considered under its specific provisions.

Conclusion

9. Taking the above into account, it seems sufficiently clear to me that the appeal scheme would not comply with the description of permitted development as it is set out by Schedule 2, Part 6, Class A of the GPDO. The appeal is therefore dismissed.

John Morrison

INSPECTOR



PLANNING REF: 2385/22/AGR

DESCRIPTION: *Application to determine if prior approval is required for a proposed road measuring 1940m x 5m wide*

ADDRESS: *Hendham View, Lowerdale Turn To Lower Preston Cross, Woodleigh. TQ7 4DP*

25th July 2022

LETTER OF OBJECTION FROM THE SOUTH HAMS SOCIETY

The South Hams Society interest

For the last 60 years, the South Hams Society has been stimulating public interest and care for the beauty, history and character of the South Hams. We encourage high standards of planning and architecture that respect the character of the area. We aim to secure the protection and improvement of the landscape, features of historic interest and public amenity and to promote the conservation of the South Hams as a living, working environment. We take the South Devon Area of Outstanding Natural Beauty very seriously and work hard to increase people's knowledge and appreciation of our precious environment. We support the right development - in the right places - and oppose inappropriate development.

*The South Hams Society is **objecting** to this application.*

The proposed track will cover / remove 9,700 square metres of land alongside hedgerows inside the South Hams SAC GHB Sustenance Zone surrounding the High Marks Barn.

Habitats Regulations	Various obligations of the Habitats Directive are transposed into domestic legislation by the Conservation of Habitats and Species Regulations 2017 (SI No. 2017/1012) ("The Habitats Regulations"). The Habitats Directives continues to have a direct effect in the UK and prevail in the event of a conflict between their provision and those of the Habitats Regulations. Decisions of the Court of the European Court of Justice are directly binding on UK competent authorities.
Habitats Regulations Assessment (HRA)	The assessment, required by the Habitats Directive and Habitats Regulations, carried out by the competent authority to assess the effects of projects or proposals on European protected sites. Stage 1 includes screening for likely significant effects. Stage 2 (Appropriate Assessment) assesses whether it is possible to avoid an adverse effect on site integrity.
HRA screening	An assessment of whether the proposal will, on its own or in combination with other plans or projects, have a likely significant effect on the SAC's population of greater horseshoe bats before avoidance or reduction measures have been taken into account. The flow chart in section 3 should be used to identify whether an application may have a likely significant effect on the South Hams SAC greater horseshoe bat population. Where it is clear that there is no likelihood of significant effect there is no need for detailed screening. However, where there may be a likely significant effect the LPA will need to use information provided by the applicant to undertake a detailed HRA screening. Where screening cannot rule out a likely significant effect then Appropriate Assessment must be carried out.

Charity No 263985

Registered Address: 20 Highfield Drive, Kingsbridge, Devon TQ7 1JR
www.southhamsociety.org | www.facebook.com/SouthHamsSociety/



The Society are of the opinion that this proposal should require a Habitat Regulations Assessment.

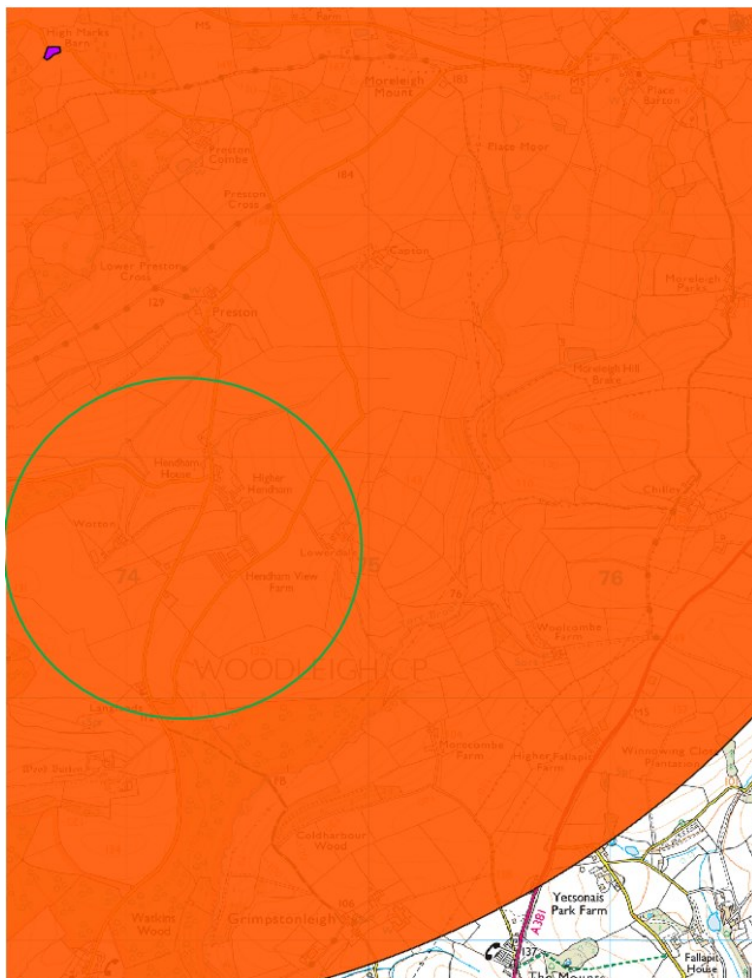
Referring to:

'South Hams Special Area of Conservation (SAC) Greater Horseshoe Bats

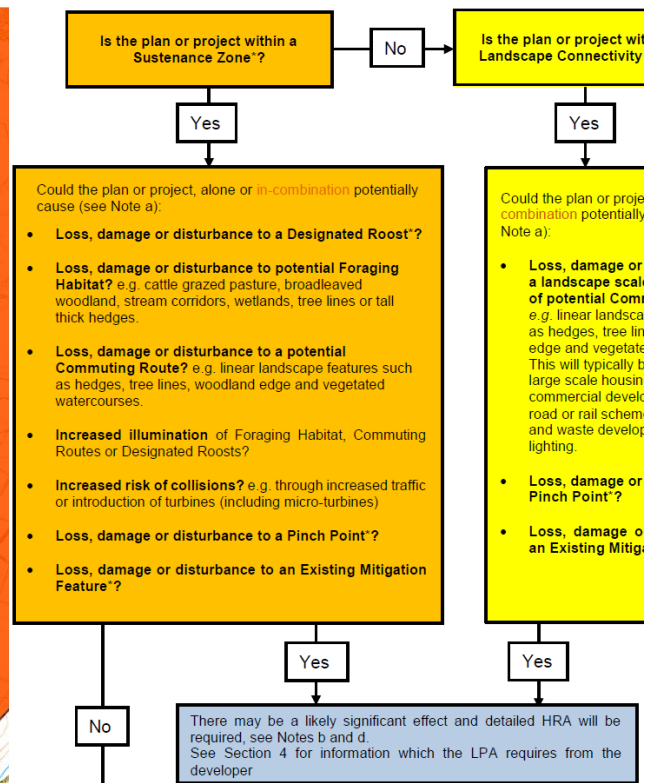
Habitats Regulations Assessment Guidance - October 2019

Flow chart to clarify when an application may have a likely significant effect on the South Hams SAC greater horseshoe bat population'.

Location of development is within sustenance zone.



High Marks Barn sustenance zone.





The Society refers to the GPDO legislation.

The Town and Country Planning (General Permitted Development) (England) Order 2015

Class 6 Part A

*Paragraph A.1 e(i) sets out that the limitation of 1000 sqm relates firstly to any works or structure **(other than a fence)** for accommodating livestock or any plant or machinery arising from engineering operations*

The legislation specifically lists one exception of a fence, but does not list private ways or tracks.

To quote the New Oxford Dictionary of English, OUP, 1998:

'accommodate - verb (with obj.) 1. (of physical space, especially a building) provide lodging or sufficient space for'

In other words, 'accommodate' does not exclusively limit the physical space in question to a building, but also to any works or structure (other than a fence) providing sufficient space, and that surely is what the 5 metre wide track is intended to do, to accommodate the applicant's 500 cows as they travel to and from his milking parlour?

The Society asks that the Case Officer identifies where in the legislation that it is recorded tracks are excluded from the 1000 m² ground cover limit.

It is also worth noting that this revised application (2385/22/AGR) has now reduced the overall length of the tracks from 3,355m to 1,940m. However that will still entail the loss of 9,700m² of pasture located around 2.3km from High Marks Barn, a loss equivalent of almost one hectare of foraging habitat.

Similarly the fact that some 1,415m of the originally proposed tracks are no longer considered necessary raises the question as to whether any or all of the remaining tracks are required, or will a further application simply follow in the future?

Finally, even if it is accepted the remaining tracks are reasonably necessary, why are they only necessary until they reach a point 25 metres from a classified road, yet are necessary up to the points where they reach the unclassified roads?

It is hard to believe that this can only be to ensure the application continues to meet with the permitted development rights in Part 6, Class A of the General Permitted Development Order. Clearly no applicant or there agent would be that cynical.

The road next to the Hendham barn complex is a classified road. The title of the application states 'direct access for the movement of livestock and machinery' and in this instance it must be that the access is to and from the barn complex.

Charity No 263985

Registered Address: 20 Highfield Drive, Kingsbridge, Devon TQ7 1JR
www.southhamsociety.org | www.facebook.com/SouthHamsSociety/



It is our opinion that despite the track surfacing shown to end 30 metres from the classified road, the remainder of the track is part of the development because the track for livestock and machinery leads to the barn complex. Without that section, the track leads to nowhere.

The climate emergency.

'One hectare of natural, open grassland can sequester up to 2.5 tonnes of carbon per hectare per annum, creating a net carbon sink held within the soil profile.'

source: <https://turfgrass.co.uk/2018/11/23/carbon-grass-technology/>

How will SHDC reconcile permitting this development with the Climate Emergency they have declared?

For and on behalf of the South Hams Society

Richard Howell

Chairman.