

AGRICULTURAL PERMITTED DEVELOPMENT RIGHTS ON FARMS



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Introduction

This book outlines permitted development under the Town and Country Planning (General Permitted Development) Order 2015 for new agricultural buildings on holdings of 5 hectares or more.

This book is intended to act as an easy to read and follow guide to explain the permitted development opportunities that exist on your farm. You should always obtain independent planning advice for any project as there are always implications that one application can have over another i.e. agricultural permitted development rights offset residential permitted development rights.

Here at Foxes Rural Consultants we will work anywhere over the UK and we have developed unique systems and operational procedures for your planning application or permitted development requirements.

We pride ourselves on our proactive approach, attention to detail, and speed of our planning service, which in turn is fed through our company ethics to our clients.

We offer a unique guarantee of having any agricultural permitted development application submitted within 28 days of being formally instructed, although it is often quicker than this.

I have sought to keep the book as brief and easy to follow as possible with a practical hands on approach based on the core of my mindset being relatable from my farming roots. I have not sought to go into the extensive detail and complexities behind the planning system with a view of ensuring that this book provides value to the reader that they can relate to their individual farm.

This book focuses on permitted development on your farm as there are vast opportunities that exist under permitted development. Agricultural development is not limited to the implementation of permitted development rights and full planning permission is an alternative route for achieving farm related development.



At Foxes Rural Consultants we know that as a farmer, you want to achieve planning permission on your farm as smoothly and as quickly as possible without the hassle of the planning system.

In order to do that, you need a simple and proven way to give you the highest chances of achieving a successful planning permission on your farm.

The problem is, there is too much paperwork, a minefield of planning legislation and an unclear route as to how to achieve that planning permission, which confuses you and can often lead to you not exploring or maximising planning proposals on your farm.

We believe that as a farmer, submitting planning applications should be simple and hassle free for you. Planning applications can be presented in a simple and easy to understand format on your farm, that considers planning issues before you submit an application. This means that you shouldn't have to waste time reading through endless planning documents, when this time can be put to running your farm instead.

We understand and we don't just care about planning applications on your farm, we care about achieving planning approvals as simply and swiftly as possible without the hassle to you. That is why we have helped



farmers achieve more than 200 planning approvals so far, with a 95% success rate for planning applications that we submit.

Here's how we do it:

- 1.** We appraise your farm as a whole and evaluate the planning history in the context of your planning strategy and objectives.
- 2.** Prepare a comprehensive and well considered planning application which pre-empt's the core planning issues that are likely to arise with your application.
- 3.** We tailor the planning submission specifically to your farm and your circumstances.
- 4.** We submit any permitted development application on your farm within 28 days of being instructed.
- 5.** We seek to engage with the planning officer and local stakeholders to understand their position on the proposal at an early stage.

So, in the meantime, here is a downloadable PDF of our Guide to Permitted Development Rights on Farms.

Instead of you having to waste time trying to comprehend the planning system on your farm, you can get hours back to work on your farm business.

The History of Planning Permission

The history of the planning system fascinates me. The planning system as we know it today was introduced under the Town and Country Planning Act 1947, which is now the Town and Country Planning Act 1990. Before 1947 there were earlier attempts at more urbanised legislation, but effectively in the rural areas it was possible to build what you wanted on an unplanned basis! We must remember that we live in a very different world to what we did in 1947 and the housing pressures and urbanisation of the rural landscape was not as it is today. Housing values were also significantly less and commuting to work was a new concept. In 1995, the Town and Country Planning (General Permitted Development) Order 1995, as amended in 2015 introduced a more streamlined prior notification for assumed planning permissions to reduce the bureaucracy and detail to planning application where development proposals were deemed to be acceptable.

It does sound exciting to have lived in a pre 1947 world whereby if you needed new farm buildings or a farm house/cottage you effectively just built them where you needed them. However, I would say that in today's planning system opportunities similar to this still exist through agricultural permitted development rights if they are maximised and used in the correct manner.



Types of Planning for an Agricultural Building

There are two types of planning on your farm.

1. Permitted development under the Town and Country Planning (General Permitted Development) Order 2015 "the GPDO".
2. Full planning permission under the Town and Country Planning Act 1990.

What is Permitted Development?

Permitted Development is legislated under the Town and Country Planning (General Permitted Development) Order 2015 "the GPDO". This permits things such as:

1. New agricultural buildings.
2. Extensions to agricultural buildings.
3. Mineral extraction for use on your farm holding.
4. Temporary uses of land for periods of time such as events.
5. Change of use of agricultural buildings to flexible commercial uses up to 500 sq.m of cumulative floor area.



- 6.** Change of use of agricultural buildings to between 3 to 5 residential dwellings up to 465 sq.m or 500 sq.m of cumulative floor area.

To be eligible for permitted development rights on your farm, the works must not have started in any way, otherwise you will have to submit a full planning application for your proposal.

These permitted development rights only apply to agricultural land and do not apply for equestrian uses.

What is Planning Permission?

Planning permission is governed by the Town and Country Planning Act 1990 and any full planning application is determined under National Planning Policy which in turn should be interpreted through Local Planning Policy from your Local Planning Authority (LPA). Planning permission grants consent for a proposal which should be determined in accordance with National and Local Planning Policy.



Local Planning Policy varies throughout the UK based on your LPA and their Local Plan. This can mean that there are planning policies targeted to your local area, whereby proposals will be deemed to be more acceptable in one area and deemed less acceptable in another area and vice versa.

Some farms will have further land designations such as a National Park or Area of Outstanding Natural Beauty (AONB).

The Definition of Agriculture

The definition of agriculture is important as your proposal and farm must be considered to be agriculture to benefit from agricultural permitted development rights. The statutory definition of agriculture is found under Section 336 of the Town and Country Planning Act 1990 (TCPA) and is defined as including

"horticulture, fruit growing, seed growing, dairy farming, the keeping and breeding of livestock (including any creature kept for the production of food, wool, skins, fur, or for the purpose of the farming of the land), the use of land as grazing land, meadowland, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and 'agricultural' shall be construed accordingly".

New Agricultural Buildings

Farms of 5 Hectares or more

New agricultural buildings are provided for under the Town and Country Planning (General Permitted Development) Order (GPDO) 2015, Part 6, Class A, which permits agricultural development and engineering operations on your farm, assuming it is greater than 5 hectares subject to the following key provisions:

- a)** The development is on agricultural land (as defined under section 336 of TCPA 1990) on an agricultural unit and it is reasonably necessary for the purposes of agriculture.
- b)** The development is not on a parcel of land of less than 1 hectare.
- c)** Cumulative development on the farm does not exceed 1,000 sq.m within a 2 year period.
- d)** The building is not higher than 12m (or 3m if located within 3km of a CAA licenced aerodrome);

e) Development is more than 25m from the hardened part of a classified road;

f) If the development is for housing livestock, silage, or slurry, is used for storing fuel for or waste from a biomass boiler or anaerobic digester system, it cannot be sited within 400m of the curtilage of a 'protected building' - this is normally a house not connected to the farm.

Within a 28 day period from the receipt of a valid application, the Council will either determine that the application does not require prior approval or request additional information, from which the application then turns into a full planning application.

If the Council does not determine the application within 28 days from the date of receipt of the valid prior approval application, you are able to progress with the development on the basis of the plans submitted and validated by the LPA.



25 metres from the hardened part of a trunk or classified road

The 25 metre road rule causes an issue if you need to surface an existing farm entrance as the works within 25 metres of a trunk or classified road would require a full planning application. This is also the case if you want to include a yard within a permitted development application and it falls within 25 metres of the highway. A full planning application is also likely to require consultation from the Highway Authority.

25 metres is measured from the hardened part of the highway and would therefore exclude any soft highway verges. If the road is unclassified then you can search for this on your local Highways website. On unclassified roads, permitted development can occur within 25 metres of the highway.



10 year rule

The building must be used for agricultural purposes for a period of 10 years from the date of construction and the LPA can insist on its demolition, if it is no longer required for the purposes of agriculture during that initial 10 year period. If a change of use application is successful during the initial 10 year period then the building can remain but ceasing an agricultural use from within the building during the first 10 years of construction is high risk as the LPA are not required to permit consent for any alternative use during the initial 10 year period.

Height Limitation within 3 kms of an aerodrome

The GPDO is prescriptive in terms of what is classified as an aerodrome. The perception is quite often that a private airstrip or similar is an aerodrome. This is not the case and an aerodrome must be licensed under article 255 of the Air Navigation Order 2009. Therefore if the aerodrome is CAA licensed under this Order, then the 3 kms height restriction will apply.

Design and External Appearance

The design of the agricultural building or development must be appropriate for its intended agricultural use. Therefore careful consideration needs to be given to the design of an agricultural building to ensure that it is fit for purpose and its materials and colours are justified.

There is no set rule for an appropriate design for an agricultural building as different agricultural uses will have different requirements. A useful exercise would be to research recently approved agricultural buildings by your LPA to identify what may be appropriate.

Usually agricultural buildings will be of a steel portal frame or mono pitch frame design.

Siting

Any new agricultural building would need to be sited in a location that is fit for its intended agricultural purpose. There is the opportunity under the GPDO to site new agricultural buildings in isolation, subject to sufficient justification.

Reasonably Necessary for the Purposes of Agriculture

The submission of an application under the GPDO must be reasonably necessary for the purposes of agriculture. The term “reasonably necessary” is subjective and open to interpretation. In my opinion, a genuine agricultural need should be relatively straightforward to justify and I would recommend instructing an agricultural consultant to prepare a short justification as this provides LPAs with confidence in a submission.

Timescale for development

Assuming you have received prior approval to commence with the agricultural building, you must complete the works in full within 5 years from the date of approval or 5 years from the 28 day determination date should the LPA have failed to respond within the 28 day timescale.



There is a requirement upon completion of the permitted development works to notify the LPA in writing of its completion.

Class Q Permitted Development Rights – Change of Use of Agricultural Buildings to Residential Buildings

Applying for a new agricultural building under the GPDO revokes your right for 10 years to implement Class Q permitted development rights for the change of use of agricultural buildings to residential dwellings. This is only relevant in the context of permitted development and Class Q change of use rights, but if you are considering implementing Class Q permitted development rights for the conversions of an agricultural building to a residential dwelling then you would need to apply for an agricultural building under full planning permission.

Article 4 Land

If an Article 4 Direction has been applied to the land where you wish to site the agricultural building, then permitted development rights will have been withdrawn.

Listed Buildings

Any impact on a listed building or a curtilage listed building as a consequence of your proposal may require listed building consent.

Hardstanding and Farm Yards

You should identify any additional hardstanding or farm yards associated with the development of the agricultural building in your GPDO application.





Farm Tracks and Access Roads – Are they permitted development?

Farm tracks and access roads are deemed to be permitted development and eligible for an application under the GPDO assuming that permitted development rights apply to the holding and the siting and external appearance is appropriate in the context of the character of the farm. Farm tracks and access roads will not be permitted development where they fall within 25 metres of the hardened part of a classified road. Therefore, the formation of any new access or works within 25 metres of the hardened part of the classified road will require full planning permission.

The application procedure for farm tracks and access roads is the same as that of an agricultural building.

Under the GPDO you are able to undertake mineral workings subject to the mineral remaining on the holding. The working of minerals is not permitted for uses off the holding but can be used for farm tracks, yards and building bases. A prior notification application is necessary to undertake any mineral workings.

What Should I Prepare with my application?

The suggestions below are our own recommendation to give you application the highest chance of success when submitting to your LPA.

- 1.** Floor and elevation plans to scale – quite often your building company or planning consultant can provide these.
- 2.** Site plan – OS map at a scale of 1:1,250 which shows the agricultural building outlined in red and other land in the ownership of the applicant outlined in blue which effectively defines the agricultural unit.
- 3.** Location plan – A map showing the location of the site.
- 4.** Farm plan of the holding.
- 5.** Agricultural justification statement – We recommend instructing an agricultural justification statement written by an agricultural consultant who will justify how your building is reasonably necessary for the purposes of agriculture.
- 6.** The prior notification forms obtained from Planning Portal.
- 7.** The application fee to the LPA.

Top Tips When Applying for a New Agricultural Building

1. Employ an agricultural planning consultant

– They will quite often have established relationships with planning officers and LPAs and will have an understanding based on their experiences of what type of agricultural building would be acceptable. The planning consultant will also have experience of the types, sizes, justifications etc that would be acceptable within that LPA. It is not as simple as it looks to just complete the forms.

2. Always apply for a slightly larger building than what you think you need

– The saying that you can never have enough space is quite true, as this saves a further application shortly afterwards.

3. Plan for future growth – Ensure that you site your agricultural building in a location that provides for future expansion and further agricultural buildings in due course. Quite often attaching a lean to building onto an existing building can provide a more cost effective route to increasing future floor area and you should ensure that the building is located in a position that makes it possible for expansion. Providing sufficient height to the building is also important.

4. Proximity to services and existing facilities

– When siting a new building you should give consideration to the routes of services and how the building integrates with the existing farm yard and buildings.

5. Provide sufficient access

– Lorries get bigger, farm machinery gets bigger. You get the picture. Constructing a new agricultural building without sufficient space for access, manoeuvrability, loading and unloading of deliveries, can make the investment a costly nightmare.

6. Drainage – Drainage is becoming more prominent in planning considerations and you should give sufficient consideration to the removal of rainwater and risk of flooding.

7. Obtain at least 3 quotes from building companies and compare these before committing to a decision. Look for recommendations amongst neighbours and other farmers and establish where to source your agricultural building from.

8. Are you demolishing an existing building?

– The GPDO does not account for the demolition of an existing building. Therefore if you are considering the demolition of an existing building then this element of the proposal will require full planning permission or a prior notification of a demolition.

**Watch our videos on
YouTube regarding
permitted development
and planning permission
on your farm**



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