



Delegated Report

Prior Approval

Application No:	20231258
Location:	Land To East And West Of Gold Street, Cobham, Gravesend, Kent, DA12 3AA
Description:	Application for a determination as to whether prior approval is required for the erection of 1 no. winery building and hardstanding.
Applicant:	Mr Sengupta, The Cantina Group Ltd
Site Visit:	19 December 2023

Submitted Documents/Plans

- Application Form - dated 06/12/2023;
- Planning Statement by Fluid Planning (ref. 0431);
- Drawing no. 0811.01 - Landscape Plan;
- Drawing no. fp0431.1 - Location Plan (scale - 1:1250);
- Drawing no. fp0431.2 - Proposed Block Plan (scale - 1:500);
- Drawing no. fp0431.3 - Proposed Plans and Elevations.

Relevant Planning History

Reference	Description	Decision	Decision Date
20230899	Application for a determination as to whether prior approval is required for the erection of 1 no. agricultural storage building.	PRIOR APPROVAL REFUSED	20.09.2023

Preliminary Matters

This application follows a refusal for a similar development. The previous application was for “*determination as to whether prior approval is required for the erection of 1 no. agricultural storage building*”, and prior approval was refused on the following grounds:

1. *Notwithstanding that the proposed development would meet the definition of development set out in Article 3, Part 6, Class A of Schedule 2 to the Town and Country (General Permitted Development) (England) Order 2015 (as amended) and the building is considered reasonably necessary for the purposes of agriculture, it is considered that prior approval would be required for the siting and external appearance of the proposed agricultural building because it would be located in a very sensitive location within the Kent Downs Area of Outstanding Natural Beauty, the Green Belt and the Istead Arable Farmlands Landscape Character Area.*

On the basis of the information submitted, prior approval is refused for the siting and external appearance of the proposed agricultural building. This is because the proposed siting and appearance would be inappropriate and harmful to the landscape. As such, it is considered that the proposed development would be harmful to the openness and natural character of the surrounding Kent Downs Area of Outstanding Natural Beauty, the Green Belt and Istead Arable Landscape Character Area and contrary to Policies CS02 and CS12 of the Gravesham Local Plan Core Strategy (2014) and Paragraph 174 of the National Planning Policy Framework (2023).

Development Plan

The application is made under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) Schedule 2 Part 6. The test as to whether prior approval is required falls under the criteria in this part. The development plan policies are not relevant.

This application is made under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) Schedule 2 Part 6 and the tests are whether or not prior approval is required as to the siting, design and external appearance of the buildings and, in the first instance, whether the buildings as proposed are in any event permitted development or whether planning permission is required.

The site is within the Green Belt, but Green Belt policy in the NPPF (2023) indicates that one of the exceptions to inappropriate development is new buildings for agriculture and forestry. The site is also within the Kent Downs National Landscape (referred to as Area of Outstanding Natural Beauty in the NPPF (2023)).

The application relates to a holding of 11.51 hectares of land which is used for the planting of vines to grow grapes, as well as traditional farming such as arable and livestock rearing, which is an agricultural use.

The first test is whether the buildings would fall within the provisions of Article 3 of and Part 6 of schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015, as amended.

Consultations, Publicity and Representations

Cobham Parish Council - Cobham Parish Council objects to this. Inappropriate development in the Green Belt and AONB.

Dickens Protection Society - With reference to the above planning application, in the Society's view there is a general lack of detail in the documentation for this application. The Society objects to the attempt to use the prior approval procedure. The Society considers, in view of the sensitivity of the site, an area within which Green Belt policies apply and the North Downs Area of Outstanding Natural Beauty, and the restricted road access, the application should be called in, in order that the full impact of the proposal can be assessed and, if granted, conditions can be imposed to control any potential intensification of the use. Details of engineering works to provide access should also be provided.

The Society considers wine making to be a quasi-industrial process when carried out on a large scale, needing industrial plant.

Officer's Analysis

Proposal

This application seeks determination pursuant to Article 3, Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as to whether Prior Approval is required in respect of the erection of two agricultural storage barns.

The barn will be approx. 9.24m high, 40m wide and 16m deep. The barn would be constructed using black metal cladding on the walls and roof.

The following constraints are applicable to the site:

- Metropolitan Green Belt
- Kent Downs National Landscape
- Archaeological Notification Area
- Istead Arable Farmlands Landscape Character Area

Assessment

Class A of Part 6 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) permits development consisting of 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.*

which are reasonably necessary for the purposes of agriculture within that unit.

Reasonably necessary for agriculture?

The proposed barn will provide a suitable building to meet the needs of modern agriculture. The following reasons have been provided in the planning statement:

- The building will facilitate the expansion and improvement of agricultural activities on the site;
- The cellar area will be used for temperature stable area, which will reduce energy consumption and costs

The barn would be used for the following uses:

- Receival of grapes
- Winery tanks
- Ageing cellar
- Barrell cellar
- Bottling
- Production (post botting)
- Riddling
- Storing of pallets ready for distribution
- Storing of dry goods
- Office/Lab

The applicants advise that the proposal falls within Class A of Part 6 of the GPDO as being a development on a unit of 5 hectares or more and would fall within Class A as being (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. Therefore, the development is reasonably necessary.

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	The site is over 1ha
(b) it would consist of the erection or extension of any agricultural building on an established agricultural unit (as defined in paragraph	There is no planning history on the site

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	The proposal does not involve a dwelling
(d) it would involve the provision of a building, structure or works not designed for agricultural purposes	The building is 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; 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	(i) No (ii) The ground area will be under 1,000m ²
(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	The site is not within 3km of an aerodrome
(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	N/A
(h) any part of the development would be within 25 metres of a metalled part of a trunk road or classified road	No - the development is over 200m away from a metalled 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	The proposed building would not to be used for livestock or slurry storage
(j) it would involve excavations or engineering operations on or over article 2(4) land which are connected with fish farming	The buildings will not be used for fish farming, and is not within article 2(4) land.
(k) any building for storing fuel for 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.	The building is not to be used in relation to a biomass boiler or anaerobic digestion system

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	The building is not proposed for these uses
(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	The building is not to be used for these uses
(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	No waste is proposed to be brought onto the site

A.2 - (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; and
(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).

The applicant has provided the relevant information.

A.2 - (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.

The development is not an extension or alteration.

A.2 - (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).

N/A.

A.2 - (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.

There is no acknowledgement of these requirements from the applicant, however would be conditions if prior approval were granted.

A.2 - (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.

No acknowledgement, but refers to an outcome and so not directly relevant here.

A.2 - (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.

There is no acknowledgement of this requirements from the applicant, however would be conditions if prior approval were granted.

Siting and Appearance

Notwithstanding the above and if it were accepted that the tests in the GPDO (Article 3, Part 6, Class A and Class A.1 (a) to (k) of Schedule 2 were met under Class A.2 (2) (i) it is still down to the Local Planning Authority to judge whether prior approval is required of the siting, design and external appearance of the agricultural building.

The application site is located in the Green Belt, the Kent Downs National Landscape and the Istead Arable Farmlands Landscape Character Area and thus in a very sensitive location. The Gravesham Landscape Character Assessment (2009) describes the key characteristics of the Istead Arable Farmland as including gently undulating topography of open arable farmland, minor clumps of native woodland and clusters of properties and farmsteads. The condition of the landscape is highlighted as poor with moderate sensitivity and it recommends restoring traditional field structures that are enclosed by native hedgerows and planting, as well as to remove detracting features from the landscape (such as electricity pylons).

The proposal would introduce a substantial new building onto currently undeveloped open land in a rural location in the Kent Downs National Landscape which is wholly characteristic of the local landscape area within which it lies, comprising gently rolling open countryside.

The proposed materials being black timber weatherboard cladding on the walls and profile metal roof, are appropriate for the rural context and the dark colour would serve to screen the building against the backdrop of trees behind properties that front Gold Street. Moreover, as part of the proposal there would be planting to screen the building, this is proposed on the western boundary of the site and to the south of the building itself. In addition, the vines will also have a screening effect to lessen the impact and views of the building from the surrounding area. Therefore, the more appropriate materials and screening hereby proposed are considered to have overcome previous concerns in the refusal application.

New buildings for agricultural purposes are not inappropriate in the Green Belt and in this location it is not considered that the proposal would harm the overriding open rural character or natural beauty of the landscape, by virtue of the positioning of the building, the proposed materials and screening. In these circumstances no objections are raised to the proposed siting.

Conclusions and Reason for Decision

The development is considered to be permitted development and the developer has applied for a determination as to whether prior approval will be required as to the siting, design and external appearance of the building. The proposed development has a traditional style of design and materials, and the siting is considered acceptable, in a location set against a backdrop of trees with screening planting proposed which

will also mitigate its visibility from more distant views.

Recommendation

Prior Approval is Required and Approved (Granted).

Case Officer:	Mr Ethan Bonthron	Team Leader:	Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	2 nd January 2024	Dated:	3rd January 2024