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## Appeal Decision

Site visit made on 11 December 2017

**by Chris Preston BA (Hons) BPI MRTPI**

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

**Decision date: 3 January 2018**

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**Appeal Ref: APP/F4410/C/17/3179011**

**Land at Bannister Lane, Skelbrooke, Doncaster, South Yorkshire DN6 8LU**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
  - The appeal is made by Mr George Smith against an enforcement notice issued by Doncaster Metropolitan Borough Council.
  - The enforcement notice was issued on 02 May 2017
  - The breach of planning control as alleged in the notice is: Without planning permission, the carrying out of building works by the erection of a metal/ wood field shelter.
  - The requirements of the notice are: Dismantle the field shelter and remove from the land.
  - The period for compliance with the requirements is one month after the notice takes effect.
  - The appeal is proceeding on the grounds set out in section 174(2) (c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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### Decision

1. The appeal is dismissed and the enforcement notice is upheld.

### The Appeal Under Ground (c)

2. The various grounds under which an appeal against an enforcement notice can be made are set out at section 174 of the Town and Country Planning Act 1990 (the Act). In this case, the appeal was submitted under ground (c) alone. No appeal has been made on ground (a) and no fee has been paid. Consequently, it is not open to me to consider whether planning permission should be granted for the development in question.
3. An appeal under ground (c) is made on the basis that the matters stated within the notice do not constitute a breach of planning control. The appellant contends that no breach of planning control has occurred on the basis that the structure amounted to 'permitted development'. That would appear to be a reference to the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) but the appellant's statement does not specify which part of the GPDO he relies upon.
4. Class A of Part 6 of Schedule 2 relates to agricultural development on units of 5 hectares or more. Works for the erection, extension or alteration of a building may be classed as 'permitted development' providing that they are reasonably necessary for the purposes of agriculture within the unit, and providing that the

relevant conditions and limitations of the GPDO are met, as listed at paragraphs A.1 and A.2.

5. However, on first principles, the development must relate to an agricultural unit of 5 hectares or more and be reasonably necessary for agriculture. The appellant has referred to the general definition of agriculture at section 336 of the Town and Country Planning Act (1990) (the Act) which states that:

*"agriculture" includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, 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.*

6. "Horsiculture" or the keeping of horses does not constitute an agricultural activity based on that definition. In addition to the general definition of agriculture within the Act, paragraph D.1 of Part 6 of the GPDO identifies how the terms "agricultural land" and "agricultural unit" should be interpreted for the purposes of that Part of the GPDO. Agricultural land is land which, before development permitted by Part 6 is carried out, is in use for agriculture and which is so used for the purposes of a trade or business, excluding any dwellinghouse or garden. An agricultural unit is agricultural land occupied as a unit for the purposes of agriculture, including any dwelling or other buildings on the land that are occupied for the purposes of farming the land.
7. At the time of my visit the land was being used for the keeping of horses and donkeys and that would appear to be the main use, based upon the information before me. In a recent appeal decision relating to a proposal to erect stables, toilets and a hay store at the holding the Inspector noted that there was no dispute between the parties that the proposed stables would have constituted a facility for outdoor recreation<sup>1</sup>. That would indicate that no agricultural use was taking place which is in line with the evidence before me. The sign at the entrance to the site refers to Skelbrooke Stables.
8. The building in question is an open-fronted shelter constructed of a number of vertical telegraph poles concreted into the ground, attached to which are a number of horizontal timber boards forming the skeleton of the walls and roof. An external skin of profiled metal sheeting is attached to those boards. Its purposes would appear to be to provide shelter for the horses and donkeys using the field. Thus, there is no evidence that the shelter was required in relation to an agricultural use and the development would therefore fall outside of the scope of the permitted development regime under Part 6 of the GPDO.
9. Even if the land was in use for agriculture, buildings are only permitted under Class A of Part 6 subject to the conditions listed at paragraph A.2. Sub-paragraph A.2(2) requires that any developer must 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. No such application was made in this instance and the failure to meet relevant conditions would mean that the building did not amount to 'permitted development' even if the land was in use for agriculture. However,

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<sup>1</sup> Appeal reference: APP/F4410/W/17/3171704

fundamentally, the appellant has failed to demonstrate that the land was in agricultural use.

10. The agent acting for the appellant has made a number of suggestions regarding cladding the building and planting to screen the structure. Those matters have no bearing on whether planning permission is required for the building but would be relevant considerations if an appeal had been made under ground (a). As set out above, no such appeal is before me.
11. Consequently, the development requires planning permission and no such permission has been granted by the Council or by the terms of the GPDO. As such, the structure represents a clear breach of planning control and the appeal under ground (c) must fail. I shall uphold the notice accordingly.

*Chris Preston*

INSPECTOR