

Appeal Decision

Site visit made on 8 November 2016

by Richard S Jones BA (Hons) BTP MRTPI

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

Decision date: 25 November 2016

Appeal Ref: APP/F0114/W/16/3157338

The Nursery, Folly Lane, Stowey, Bristol BS39 4DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by AJP Growers Ltd against the decision of Bath & North East Somerset Council.
 - The application Ref 16/01001/AGRA, dated 17 February 2016, was refused by notice dated 3 March 2016.
 - The development proposed is the erection of agricultural building (following application 16/00086/AGRN).
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Decision

1. The appeal is dismissed.

Main Issues

2. Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) states that the carrying on agricultural land comprised in an agricultural unit of 5 hectares or more in area of works for the erection, extension or alteration of a building which is reasonably necessary for the purposes of agriculture within that unit is permitted development.
 3. Condition A.2(2)(i) of the permitted development states that 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.
 4. This is therefore a two stage process. The question as to whether the proposal is permitted development needs to be dealt with before the question of whether or not prior approval of the details is required.
 5. Accordingly, the main issues are:
 - whether or not sufficient evidence has been provided to demonstrate that the proposal is permitted development under Schedule 2, Part 6, Class A of the GPDO;
 - if the development is permitted development, whether the application has been made in accordance with the requirements of the prior approval process; and
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- the effect of the proposal on the openness of the Green Belt and the character and appearance of the area.

Reasons

6. In order to benefit from the permitted development rights conferred by Schedule 2, Part 6, Class A of the GPDO, the building must be erected on agricultural land comprised in an agricultural unit of 5 hectares or more in area and be reasonably necessary for the purposes of agriculture within that unit.
7. In the Council's covering letter of 4 February 2016 to its decision under reference 16/00086/AGRN, that prior approval would be required, the Council state that it has evidence which suggests that the requirements of paragraph A of Class A, Part 6 of Schedule 2 of the GPDO have not been met. Reference is made to a previous appeal dated 26 August 2009 where the Inspector found that there was not an agricultural unit of 5 hectares or more and the Council go on to state that there is no evidence to suggest that this situation has changed. It is also claimed that a request to provide further details of the agricultural unit on 20 January 2016 was declined by the appellant.
8. Whilst I do not have evidence of such an exchange of correspondence, I do note that the appellant's appeal form states the area of the whole of the appeal site as being 1 hectare. Though the appeal site may form part of a larger agricultural holding, I have no evidence that such a holding is five hectares or more.
9. The Council letter of 4 February 2016 also calls into question whether the proposed development is reasonably necessary for the purposes of agriculture. The decision notice itself, in addition to requiring the prior approval of the siting, design and external appearance of the building, also advises the appellant to submit a supporting statement relating to the agricultural function of the site in relation to the proposal and a justification on how this directly relates to the capacity of the building.
10. Notwithstanding that this point should have been satisfied before confirming that prior approval would be required, I have no such evidence to demonstrate that the works are reasonably necessary for the purposes of agriculture.
11. Accordingly, I have insufficient evidence to demonstrate that the proposal benefits from the permitted development right under Schedule 2, Part 6, Class A of the GPDO. In these circumstances it is not necessary or appropriate for me to go on to consider whether the application has been made in accordance with the requirements of the prior approval process or the effect of the proposal on the openness of the Green Belt and the character and appearance of the area.

Conclusion

12. I conclude that based on the information before me the proposal cannot be considered permitted development and for this reason the appeal is dismissed.

Richard S Jones

Inspector