The Planning Inspectorate

Appeal Decision

Site visit made on 5 December 2016

by Zoe Raygen Dip URP MRTPI

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

Decision date: 22 December 2016

Appeal Ref: APP/V1505/W/16/3157035
Park Hill Farm, Billericay Road, Billericay, CM12 9SL

- 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 Order) 2015.
- The appeal is made by Mr Hockley against the decision of Basildon District Council.
- The application Ref 16/00696/AGBAS, dated 19 May 2016, was refused by notice dated 10 June 2016.
- The development proposed is timber framed and clad barn with pitched tiled roof.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

   i) whether or not the development would be carried out on agricultural land in an agricultural unit and is reasonably necessary for agricultural purposes such that it benefits from permitted development rights set out in Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO)

   ii) the effect of the proposal on the character and appearance of the local area with regard to the siting of the proposed building.

Reasons

Whether agricultural land

3. Class A, Part 6 the GPDO permits, subject to restrictions and conditions, the carrying out on agricultural land in a unit of 5 hectares or more of the erection, extension or alteration of a building.

4. There is no dispute that the unit comprises of 5 hectares or more. However, the Council considers that insufficient evidence has been submitted to demonstrate that the proposal relates to agricultural land in an agricultural unit currently in use for agriculture for the purposes of a trade or business.

5. Paragraph D.1 relating to Part 6 of the GPDO states that for the purposes of Classes A, B and C 'agricultural land' means land which, before development permitted by this Part is carried out, is land in use for agriculture and which is

so used for the purposes of a trade or business….' Thus, the permitted development rights under Class A, Part 6 expressly apply to land in existing agricultural use.

6. 'Agriculture' is not defined in the GPDO, and so I refer to the definition in section 336(1) of the 1990 Act. It 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*'.

7. The appeal site is located within a field. I saw at my site visit that it is part of a wider unit that is used for the grazing of cattle and sheep. As a result therefore the use of the land falls within the definition of agriculture. However for the purposes of the GPDO for the land to be agricultural by definition it should be used for the purposes of trade or business.

8. The appellant states that the agricultural business has been operating for a couple of decades providing husbandry services to neighbouring farmers. In recent years he has purchased more land to the south. Famers' cattle and sheep graze the land when their fields are being left to rest which is on a three year rotational basis. Fields are also being offered to farmers who are moving sheep to market from further afield which is not uncommon. The appellant wishes to increase this, but to adequately service the land based business requires the storage and office building.

9. Nonetheless, the application is not supported by any farm accounts or business plan that would clarify the operation of the unit as a commercial enterprise. There is no indication of the nature of the terms or extent of the use of the land by neighbouring farmers. Therefore, although there appears to be some agricultural use of the land, I agree with the Council that the appellant's submissions do not provide sufficient evidence to suggest that the holding is being operated as a trade or business. In the absence of such evidence I do not consider that the unit has been shown to be an operative agricultural business in order to benefit from the permitted development rights.

10. The appellant points to the planning permission on site for the construction of a 12,000 bird free range egg production unit (09/00593/FUL). Together with the siting of a mobile home as a temporary workers agricultural dwelling (10/00783/FULL) he considers this demonstrate the agricultural nature of the site. However the permission for the egg production unit has not yet been implemented. Furthermore, I acknowledge that the dwelling is in place but the submitted evidence demonstrates that the justification for it is purely in association with the proposed egg production plant. Its presence is not therefore sufficient evidence of the agricultural nature of the land.

11. The GPDO also requires any building erected under permitted development rights to be 'reasonably necessary for the purposes of agriculture' within the unit. The Council considers that insufficient information has been submitted to consider whether the proposed building is reasonably necessary. The building would provide secure storage for feed and machinery together with an office. The appellant states that secure storage is required for the machinery necessary to maintain the pastureland, tracks, ponds and woodland.

Furthermore, feed stuffs are needed in the event his land is partially unavailable due to poor weather. In addition an office is required as he has lost his off-site facility and needs to undertake meetings.

12. Irrespective of the stated requirement, the GPDO defines 'agricultural unit' to mean 'agricultural land which is occupied as a unit for the purposes of agriculture'. As I have found that it has not been shown that the land is 'agricultural land', it follows that the unit has not been shown to be an 'agricultural unit'. Therefore, it must follow that the erection of the proposed building cannot be regarded as 'reasonably necessary for the purposes of agriculture within that unit'.

13. The appellant considers that the GPDO does not require evidence of the use of the land is by a trading agricultural (land based) enterprise. However as it is a pre-requisite for the unit to be in receipt of permitted development rights it is essential that the decision maker is satisfied that any proposal complies with the relevant requirements.

14. For the reasons above, I am not satisfied that sufficient evidence has been submitted to demonstrate that, on the balance of probabilities, development would be carried out on agricultural land in an agricultural unit and is reasonably necessary for agricultural purposes. Therefore, the proposal before me is not permitted development under Schedule 2, Part 6, Class A of the GPDO. Consequently, I conclude the proposal is development for which planning permission is required. An application for planning permission would be a matter for the Local Planning Authority to consider in the first instance.

15. Given my findings above it is not necessary for me to consider the related merits of the prior approval application against those matters set out in Paragraph A2 of Class A of the GPDO.

Conclusion

16. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR