

Appeal Decision

Site visit made on 13 June 2017

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 26 July 2017

Appeal Ref: APP/Y9507/W/17/3169454

Padwicks Farm, Whites Lane, Bepton GU29 0LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval under Schedule 2, Part 6, Class A of Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (as amended).
 - The appeal is made by Mr M Bilsland against the decision of South Downs National Park Authority.
 - The application Ref SDNP/17/00030/APNB, dated 4 January 2017, was refused by notice dated 1 February 2017.
 - The development proposed is agricultural storage building.
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Decision

1. The appeal is allowed and the development is deemed to be granted under the provisions of Schedule 2, Part 6, Class A of Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (as amended) for an agricultural storage building at Padwicks Farm, Whites Lane, Bepton GU29 0LY, in accordance with the terms of application Ref SDNP/17/00030/APNB, dated 4 January 2017, and the plans submitted with it.

Procedural Matters

2. The Authority has issued two decision notices. The first determined that prior approval was required which the Authority has indicated to be incorrect. The second decision notice determined that planning permission was required by virtue of not being permitted development because the proposal was not reasonably necessary for the purposes of agriculture.
3. Taking into account the second decision notice as a whole, I have treated the proposal as a refusal of a determination for a prior approval under the banner heading above (the third bullet point). The Authority has indicated that the decision date of this refusal should be treated as 1 February 2017 although the Appellant disputes this.
4. For the purposes of the banner heading, I have considered the Authority's date on the decision notice as it issued the decision. Nevertheless, I will comment upon the relevance of the dates of both decision dates later in my decision.

Application for costs

5. An application for costs was made by Mr M Bilsland against South Downs National Park. This application is the subject of a separate Decision.
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Main Issues

6. The main issues are (a) the necessity of the proposed development for the purposes of agriculture within the unit under paragraph A of Schedule 2, Part 6, Class A of the GPDO and (b) whether the decision requiring prior approval was issued within the prescribed 28 day deadline, having regard to normal business hours.

Reasons

Reasonably necessary for the purposes of agriculture

7. An agricultural justification statement (AJS) details a holding of approximately 16 hectares as permanent pasture which currently supports 120 head of mixed sheep, an orchard and an apiary. Hay is also produced for feed. There are also chickens, pigs and a vegetable growing area mainly for personal use. The AJS indicates that the sheep currently graze the pasture on a seasonal basis and are removed from the holding in the autumn. Limited agricultural machinery is stored on the farm because a contractor carries much of the mechanical operations on the holding, such as mowing, fertilising and topping activities.
8. At present, all year keeping of sheep is not possible at present because there is currently nowhere to store the necessary feed during winter months. Nevertheless, the Appellant wants to increase the sheep to 150 ewes and 100 store lambs, introducing rare breeds. Ewes will be kept on the site during the winter for early spring lambing resulting in sheep presence all year round. Allied to these changes in the sheep operation, the Appellant wants to use his own machinery and equipment which is indicated to be more cost-effective than using contractors.
9. Consequently the AJS justifies a new agricultural building on this basis for the storage of machinery and equipment, and enable the change in sheep farming operation to take place. Appendix 3 of the AJS provides a detailed list of machinery and equipment, together with necessary storage areas, which would be housed in the new barn. It also includes storage area for feed and sheep topping unit.
10. The existing barn and shed are listed and have received planning permission and listed consent into holiday accommodation. However the shed and barn have limited external openings with significant low internal height areas restricting the practical storage for machinery and storage. Based on the equipment and machinery detailed, necessary alterations to these listed buildings would be likely to harm their historical and architectural qualities and significance. The new agricultural building has been traditionally designed to be in keeping with the listed barn and shed, and adjacent farm house and so would have some low height areas similar to the main barn and shed. Nevertheless the new barn would have greater and higher multiple open bay areas for machinery and equipment storage and so would be substantially different.
11. The AJS simply details that the use of 'in-house' machinery and equipment is necessary to improve viability and reduce costs. However the sheep farming operation would be significantly changed on the holding and therefore it is not unreasonable for the Appellant to be able to use his own machinery and

equipment. The feed storage shown within the new building could appear small given the increased number of sheep on the holding all year round and the need for feed storage to facilitate the change in farming operations. However the building would provide storage for a sheep topping unit and even if the covered feed storage area is small, this would suggest that the size of the farm building would not be overly large for its intended purposes.

12. The sheep stocking numbers would be at the upper limits of this size of holding under National Sheep Union guidance in Appendix V1 of its statement. However the AJS provides explanation on soil and pasture types, breakdown of individual approximate areas as per the Rural Payments Agency register, sheep numbers and likely breeds. Together with the established nature of the seasonal sheep farming on the site, this conveys farming experience, including in sheep husbandry, which would not weaken the case for the building.
13. In summary, the AJS provides a good justification for the new agricultural building, and how it would be used for the changed farming operation on the holding involving greater all year round sheep presence and 'in-house' use of machinery and equipment. For all these reasons, the building would be reasonably necessary for the purposes of agriculture. Notwithstanding its general objection to the proposal, the Authority raises no other concerns in terms of specific conditions contained in paragraphs A.1 and A.2 of Part 6, Class A. I have no reason to take a different view. Therefore I shall now consider the procedural issues before me.

28 day deadline

14. There is a 28 day determination period running from the date of the receipt of the application for the Authority to determine whether prior approval is required or not. Paragraph 2(7) of Schedule 1 to the Town and Country planning (Electronic Communications) (England) Order 2003 and Article 2(9) of the GPDO are clear that communications received outside of normal business hours shall be taken to have been received the next working day. Furthermore section 336(4A) of the 1990 Act indicates that an electronic communication, used for the purposes of giving a notice, shall be taken to have been received the following day if received outside of that person's business hours.
15. The Appellant's agent has indicated that his normal business hours are up to 1730 hours during the working week. Here, the Appellant received the first notice by email on the 28th day following the receipt of the original application at 1745 hours. The second corrected decision notice was uploaded onto the Authority's website after this. It is not clear whether this was sent to the agent at the same time or directly after the first decision notice within the 28 day date deadline. However, if was, it would still have been outside of the agent's normal business hours.
16. The Authority has provided copies of email correspondence sent to the agent after 1730 hours but this only provides a snapshot of the working times of the Appellant's agent during the year and so cannot be representative. Moreover they could simply indicate the agent's presence on an ad hoc basis to catch up on a heavy workload. The Authority states that the agent's business hours are not published on the company website or other media. Nevertheless this merely emphasises the need to check them further if such an important notice was required to be sent within a prescribed deadline. For all these reasons, the decision notices should be treated as being received the next working day and

therefore, the development could have proceeded given my previous comments on the reasonable necessity test.

Other matters

17. Notwithstanding its second decision notice, the Authority requires consideration of the siting, design and external appearance of the new building in relation to the setting of the listed barn, shed and farmhouse. However the determination requiring a prior approval was not carried out within the correct timescale for the reasons indicated and therefore these considerations are not relevant. Similarly conditions cannot be imposed as they could only be considered where prior approval is given.

Conclusion

18. In conclusion, the building is reasonably necessary for the purposes of agriculture on the basis of the evidence before me. The Authority's notice requiring prior approval was issued after the prescribed 28 day timescale having regard to reasonable hours. Therefore the proposal would be permitted development and prior approval is not required.
19. Having regard to the above and to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR