
Appeal Decision

Site visit made on 3 September 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2019

Appeal Ref: APP/Y2430/W/19/3233772

Old Manor Farm, Sandpit Lane, Long Clawson, Melton Mowbray LE14 4NX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr David Clarke against the decision of Melton Borough Council.
 - The application Ref 19/00375/GDOAGR, dated 29 March 2019, was refused by notice dated 26 June 2019.
 - The development proposed is a new building for the storage of fodder and farming equipment.
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Decision

1. The appeal is allowed and prior approval is deemed to be granted under the provisions of under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a new building for the storage of fodder and farming equipment at Old Manor Farm, Sandpit Lane, Long Clawson, Melton Mowbray LE14 4NX in accordance with the terms of the application, Ref 19/00375/GDOAGR, dated 29 March 2019, and the plans submitted with it.

Preliminary Matters

2. I note that the local planning authority (the LPA) have expressed doubt as to whether the proposed building is reasonably necessary for the purposes of agriculture and thus whether the development would be 'permitted development' (PD). However, the prior approval procedure under Part 6 makes no provision for any determination to be made as to whether the development would be PD and as such this matter is outside of the scope of this appeal. It is the responsibility of the appellant to ensure that the new building is reasonably necessary for the purposes of agriculture within the agricultural unit, since otherwise the approved development would be at risk of enforcement action.

Main Issue

3. Whether the application made for prior approval was determined by the LPA within the statutory timeframe outlined in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and the subsequent requirement to have regard to the prior approval matters for consideration.

Reasons

4. Development consisting of the erection of a building is permitted by Schedule 2, Part 6, Class A, paragraphs A.2.(2)(a)(i)-(vi) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereby referred to as 'the Order') subject to the developer meeting several conditions. The developer must, before beginning the development, apply to the LPA for a determination as to whether the prior approval of the LPA will be required as to the siting, design and external appearance of the building. 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.
5. Once the fee is paid on a valid prior approval application, the statutory period for determination of the application commences. Moreover, the LPA has 28 days to determine whether prior approval is required. The determination made by the LPA must be provided to the developer within this timeframe.
6. In the case of this appeal, the statutory period for determination did not start until the fee was received by the LPA on 7 May 2019. The evidence before me appears to suggest that the LPA sought additional information in relation to the agricultural trade or business taking place within the site. However, this did not 'stop the clock' on the statutory period for determination, which ceased on 4 June 2019. The LPA did not subsequently make its determination until 26 June 2019.
7. For the above reasons, I therefore conclude that prior approval is deemed to be granted, as the LPA failed to issue its decision during the statutory period for determination. The development can therefore lawfully proceed so long as it takes place in accordance with the submitted plans and meets the terms and conditions of the planning permission.

Conditions

8. Schedule 2, Part 6, Class A paragraph A.2(2)(vi)(bb) of the Order specifies that, other than where approval has been given by the LPA, the development must be carried out within a period of 5 years from the date on which the LPA were provided with the information referred to in paragraph A.2(2)(ii) of that Class, this date is stated as 29 March 2019, based on the Application Form. Having regard to provision A.2 (2)(v)(aa) of the Order, the development must be undertaken in accordance with the details submitted with the application. Finally, in accordance with paragraph A.2(2)(7) of the Order, within 7 days of the date on which the development is substantially completed, the developer must notify the LPA in writing of that fact.

Conclusion

9. For the reasons given above I conclude that the appeal should be allowed and prior approval is deemed to be granted.

Paul Thompson

INSPECTOR