
Appeal Decision

Site visit made on 10 September 2019

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2019

Appeal Ref: APP/A3655/W/18/3195288

Blanket Mill Farm, Goose Rye Road, Worplesdon, Surrey GU5 3RQ

- 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) (England) Order 2015.
 - The appeal is made by Ms Karen Keenan against the decision of Woking Borough Council.
 - The application Ref PLAN/2017/0980, dated 18 August 2017, was refused by notice dated 15 September 2017.
 - The development proposed is livestock accommodation.
 - This decision supersedes that issued on 1 August 2018. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) enables certain types of development to take place without the need for a specific planning permission, provided certain criteria are met. Provisions exist under Schedule 2, Part 6, Class A of the GPDO for the erection of agricultural buildings, subject to certain limitations.
3. In refusing the application, the Council stated that it considered planning permission for the proposal was required as the building would not meet the criteria of Class A. It considered that the building would be located within 400 metres of a protected building and, taking account of the use of the building as livestock accommodation, that it would not comply with Criteria A.1(i). The Council states that the proposed development would meet the other criteria of Schedule 2, Part 6, Class A of the GPDO and I see no reason to disagree with their conclusions in this regard.

Main Issue

4. Taking account of the preliminary matters set out above, the main issue is whether the proposal would meet the requirements of Schedule 2, Part 6, Class A of the GPDO, with particular regard to the proximity to a protected building.

Reasons

5. Criteria A.1(i) of Schedule 2, Part 6, Class A of the GPDO states that development is not permitted if it would consist of the erection of a building

used or to be used for the accommodation of livestock where the building would be within 400 metres of a protected building. I note that the appellant does not dispute that the building would be within 400 metres of a protected building, being a dwellinghouse.

6. The proposed building is intended to accommodate approximately 200 turkeys that are bought as day old chicks and require incubation under heat lamps permanently for up to 12 weeks. During that time, the proposed building would enable them to be fed and watered, kept at a stable temperature and protected from predators until such time as they can be turned out into the surrounding field. After that point, I understand that they are fed, watered and roam freely within their paddocks. The building may also be used to accommodate the birds in extreme weather conditions, for egg laying and in the event of quarantine. I understand there is no other accommodation available for the birds.
7. This means that the purpose of the proposed building would be use for the accommodation of livestock. Given its location within 400 metres of a protected building, it would not meet criterion A.1(i) of Schedule 2, Part 6, Class A of the GPDO. This is consistent with the decision of *R (oao Marshall) v East Dorset DC & Pitman* [2018] EWHC 226 (Admin) that stated this paragraph excludes from the scope of permitted development a proposed development which is used or to be used for the accommodation of livestock, i.e. where accommodation of livestock is the purpose of the development. This limitation must be considered before any exceptional circumstances set out in the GPDO can be triggered.
8. Paragraph A.2 provides conditions to development permitted under paragraph A.1. Paragraph A.2(1)(a) relates to the use of development that has already been carried out. It states that where development is carried out within 400 metres of a protected building, any building must not be used for accommodation of livestock except in certain circumstances set out at paragraph D.1(3). Paragraph D.1(3) would allow the use of a building within 400 metres of a protected building where there is no other suitable building further away and for purposes including where animals normally kept out of doors require temporary accommodation in a building because they are sick, giving birth or newly born.
9. However, the condition at paragraph A.2(1)(a) is intended to apply to buildings that have already been constructed in accordance with paragraph A.1. It may be that existing buildings at Blanket Mill Farm could be used for the purpose proposed in accordance with this condition. However, paragraph D.1(3) is not referred to in paragraph A.1(i), neither can it be read into that paragraph. Paragraph A.1(i) is not subject to the same exception as the condition at paragraph A.2(1)(a). I have already concluded that use of the proposed building would not be in accordance with paragraph A.1(i).
10. Reference has been made to other appeal decisions¹. However, I need to determine the appeal against the GPDO and on its individual merits.
11. For these reasons, I conclude that the proposed building would not comply with Schedule 2, Part 6, Class A of the GPDO. As a result, the appeal must be dismissed.

AJ Steen INSPECTOR

¹ e.g. APP/A3655/A/11/2142858, APP/A3655/C/14/2217463, U1105/C/02/1082512 and U1105/A/01/1077391