
Appeal Decision

Site visit made on 11 November 2019

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2019

Appeal Ref: APP/G2245/W/19/3233445

Wilken's Ghyll, Pigdown Lane/Rectory Lane, Chiddingstone

- 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 E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Dr Nigel Dunmore against the decision of Sevenoaks District Council.
 - The application Ref 18/03940/AGRNOT, dated 21 December 2018, was refused by notice dated 18 January 2019.
 - The development proposed is for an agricultural/forestry style barn.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address from the planning application form although I note it is expressed differently on other documents.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, Schedule 2, Part 6, Class E relates to forestry developments being the carrying out on land used for the purposes of forestry, including afforestation, of development reasonably necessary for those purposes. Class E grants deemed planning permission for the erection of a building necessary for the purposes of forestry subject to criteria.

Main Issue

4. The main issue is whether the erection of a forestry barn would be reasonably necessary for the purposes of forestry that could be considered to be permitted development under Schedule 2, Part 6, Class E of the Order as amended.

Reasons

5. The proposed barn has been put forward for use for forestry purposes. The planning application form indicates that it is intended to harvest timber from the land, import timber from elsewhere and mill the timber into raw planks, dry and store the timber at the site. The appellant contends that these activities would be within the scope of Class E. The appellant within his appeal statement comments that sourcing timber from elsewhere 'may' take place and

that this would likely to be limited, if at all, at the early stages. Nonetheless, I must deal with the development as put forward upon the planning application form and this indicates the building's future intended use would include the importing and processing of timber.

6. In the context of the activities to take place at the proposed barn the Millington v Secretary of State for Environment case has been referred to by the appellant. The Council, as part of its statement of case, has provided a fuller account of that Court of Appeal decision, although it in itself is a summary of that court case produced by Mace and Jones Solicitors.
7. The appellant asserts that the processing of timber to make the product marketable or disposable for profit would constitute forestry. The Council has referred me to advice provided by the Forestry Commission where it considers the processing and sale of timber would be ancillary to forestry but only if the timber is grown on site and it is the only primary timber products that are sold. Indeed, the Millington case, although relating to the business of wine making, found that processing a crop for sale was ancillary to the agricultural use of the site as it took place at the same site where the crop was grown. That is not the case here as some timber would be imported. From the information before me, it does not appear to me that the Millington case would offer any substantive support to the appellant's view that importing timber should be considered as ancillary to forestry activity at the appeal site, despite being within the same scope of activity.
8. The provisions of Class E of the Order require the building to be reasonably necessary for the purposes of growing and managing the woodland, including that of the new planting. Whilst some of the operations outlined by the appellant could be considered potentially ancillary to forestry this would only be to the extent that the processing activity related to timber grown on site, rather than that timber imported. Consequently, I find that the importation and processing of timber from elsewhere would be a different activity to that which would amount to development relating to forestry activity at this land. The proposal would, therefore, fall beyond the scope of Class E.
9. The Council's agricultural adviser advises that in his experience the building applied for would be overly large for the small amount of woodland at this site. The appellant advises that although the tree nursery that exists has only been partly successful, he indicates that he owns land adjoining the site, some of which hosts mature woodland. Notwithstanding this, the appellant advises that if the volume of timber on site is calculated, it would far exceed the capacity of the space available in the barn for the storage and drying of timber. Even if the appellant is right on this point, this does not alter my above findings in relation to importing timber for processing at the appeal site in relation to Class E.

Other Matters

10. The appellant has advised that larger forestry buildings than the one proposed here have been granted in the area and on sites smaller than this site, citing Pigdown Plantation an example, said to have been granted under the terms of the Order. I have not been provided with the full details of that case, or others in the area. Therefore, it is not possible for me to determine what similarity, if any, those developments would have to that of the proposal before me. In any event, this proposal can and should be considered on its own merit.

11. I note the appellant's comment in relation to the Council's specialist adviser, however given the credentials of that adviser I see no substantive reason that would preclude that individual providing advice pertaining to forestry matters. The Council's delegated authority for decision taking, officers entering the site unlawfully and lack of engagement with the appellant have also been questioned by the appellant, however those are matters for the appellant to take up with the Council separate from this appeal. In addition, whilst the appellant contends that the Council has deferred to the wishes of Chiddingstone Parish Council, I see no clear evidence that would substantiate this suggestion.

Conclusion

12. For the reasons given above, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR