
Appeal Decision

Site visit made on 25 February 2020

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 02 March 2020

Appeal Ref: APP/U2235/X/19/3223891

Willow Farm, Lughorse Lane, Maidstone, Kent ME18 6EB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Nigel Trowell against the decision of Maidstone Borough Council.
 - The application Ref 18/506459/LDCEX, dated 9 December 2018, was refused by notice dated 19 February 2019.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which an LDC is sought is 'to establish the existing lawful siting of caravan on agricultural farm whilst building the barn'.
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Decision

1. The appeal is dismissed

Reasons

2. The Appellant and his wife purchased Willow Farm in May 2018 and are developing an agricultural enterprise on the land. Two prior notification applications were made to the Council in 2018 for a proposed agricultural building and a proposed agricultural access track and yard area. The Council determined, in both cases, that prior approval was not required. The Appellant has commenced the construction of the agricultural building, the barn referred to in the description of the development for which an LDC is sought. The description is taken from the Council's refusal notice because the description on the application form is not specific. Under the prior notification process the barn is required to be completed within five years of the date of the decision notice; 19 July 2023.
3. The burden of proof in an LDC application is on the Applicant though there shall be no good reason to refuse the application provided the Applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of an LDC on the balance of probability. In this case the evidence must demonstrate that the siting of a caravan on the land whilst building the barn is development permitted under the provisions of Class A of Part 4 of Schedule 2 of The Town and Country Planning (General Permitted Development) Order 2015 as amended (the 2015 GPDO).
4. Development is permitted by Class A of Part 4 of Schedule 2 of the 2015 GPDO for the provision on land of buildings required temporarily in connection with and for the duration of operations being carried out on the land. The Appellant maintains that the caravan sited on the land is required temporarily in connection with and for the duration of the construction works on the barn.

5. The Appellant submitted a supporting statement with the application, in which he indicates that "We are in need of a welfare facility on the farm for Health and Safety not only for us but also for any seasonal workers we may need to employ during pruning and picking etc. The mobile home would provide toilet and kitchen facilities and somewhere to shelter from the weather. We are constructing the barn ourselves alongside working the farm and building up the business". He has also indicated that "Our only other place to live is with a family member in Liverpool but this is just not an option for us physically and financially so the need to stay on site at this time is paramount".
6. The caravan on the land is clearly the Appellant and his wife's home and is also used as a welfare facility and a shelter by seasonal workers. It is not just supporting the construction of the barn but is supporting the use of the land and the development of the agricultural business. Class A of Part 4 of Schedule 2 of the 2015 GPDO is specific. It is for the provision on land of buildings required temporarily in connection with and for the duration of operations being carried out on the land. It is not, crucially, for the provision of buildings required in connection with the use of land or to support a business.
7. The Appellant has acknowledged the purpose of the permitted development right by stating that "We will of course cease staying in the unit and remove it from the farm within one month of the barn completion...". But if the LDC sought was granted it would, in effect and given the Appellant's honest statement, allow the retention of a temporary agricultural workers dwelling potentially for in excess of three years, because the completion of the barn could be delayed until 19 July 2023. In this regard bad weather has already delayed work on the barn.
8. There could be a need for storage facilities on the land in which to keep materials and tools specifically needed in connection with and for the duration of operations leading to the completion of the barn. Such storage facilities could be provided under Class A of Part 4 of Schedule 2 of the 2015 GPDO. But a caravan, which is not specifically needed in connection with and for the duration of operations leading to the completion of the barn, is not development permitted by Class A of Part 4 of Schedule 2 of the 2015 GPDO.
9. For the reasons given above the Council's refusal to grant an LDC in respect of 'to establish the existing lawful siting of caravan on agricultural farm whilst building the barn' at Willow Farm, Lughorse Lane, Maidstone, Kent was well-founded and the appeal thus fails. The powers transferred under section 195(3) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector