
Appeal Decision

Site visit made on 11 August 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2020

Appeal Ref: APP/N4720/W/3253271

Pelstone Cobbles, East Chevin Road, Otley LS21 3BN

- 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 B of the Town and Country (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr and Mrs Liddle against the decision of Leeds City Council.
 - The application Ref 20/01989/DAG, dated 27 March 2020, was refused by notice dated 24 April 2020.
 - The development proposed is the provision of private way.
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Decision

1. The appeal is dismissed.

Procedure Matters

2. The description of development is taken from the Council's decision notice as the appellant has indicated in part E of the appeal form this is correct.
3. The Council's decision notice relates to Schedule 2, Part 6, Class A of the Town and Country (General Permitted Development) (England) Order 2015 (as amended), (GPDO). However, the appeal relates to Schedule 2, Part 6, Class B of the GPDO, I have dealt with the appeal on this basis.

Background and Main Issues

4. Class B of the GPDO permits agricultural development on units of less than 5 hectares. This includes at Class B (d) the provision, rearrangement or replacement of a private way, where the development is reasonably necessary for the purposes of agriculture within the unit.
5. In this case, the Council contend they do not consider the appeal site to be one which comprises an agricultural unit and that the private way is reasonably necessary for the purposes of agriculture. The appeal site relates to a property known as Pelstone Cobbles, originally a coach house as part of the adjacent property known as Manby House and was granted permission to become a dwelling in 2002. As such, the Council maintain that at no point it was apparent that both Manby House and Pelstone Cobbles comprise of an agricultural unit.
6. Therefore, the main issue is whether the proposed private way constitutes permitted development pursuant to Class B (d) of the GPDO.

Reasons

7. The GPDO sets out for the purposes of Class B, 'agricultural land' means land which, before development permitted by this Part, is carried out, is land in use for agriculture and which is so used for the purposes of a trade, business, and excludes any dwellinghouse or garden. An 'agricultural unit' is defined as agricultural land which is occupied as a unit for the purposes of agriculture and including specified dwellings.
8. The appeal proposal is to provide a new access 'private way' leading to agricultural land at Pelstone Cobbles, the land is located towards the south of the dwelling and is used for sheep rearing and fattening. The private way would link with what appears to be a former track in part, with access taken from East Chevin Road, it would then adjoin the agricultural fields. The private way would be constructed of limestone chippings.
9. The appellant's state that a sheep farming business operates from Pelstone Cobbles which is owned by the appellant's mother. The appellant's therefore run the business and also provide a supper club in-connection with the home-grown lamb, North & Wild at the property. However, the evidence is inconclusive on this matter as there are limited details of the businesses and the actual operations of the sheep farming, including numbers of livestock. Furthermore, it appears that the land, which has been commercially sheep farmed by a neighbouring farmer for many years, that the appellants have now taken over relates to the agricultural fields to the south of the property. Unlike the land to the north within Pelstone Cobbles where the private way is proposed.
10. The appellant has provided further evidence, which includes a County Parish Holding number and Single Business Identifier. Whilst the purpose of the agricultural holdings certificate would be to ensure that anyone with an agricultural tenancy is notified of a planning application, it is not evidence of the use of land or any buildings as 'agriculture', or whether the land is part of an 'agricultural unit'. A further photograph is provided of which is not dated. Despite this showing a building with several sheep on the adjoining land to the south it does not appear to show that agricultural activities are taking place on the land at the property where the private way is proposed.
11. The Council consider that there is an alternative route for the 'private way', however this is not a matter or limitation for consideration under the prior approval process. Nonetheless, the appellant's state there is no existing route through the neighbouring third party land which could be utilised, and, in my opinion, the domestic driveway is narrow and would require significant enhancements to facilitate any large vehicle using it.
12. Notwithstanding the above, I have not been provided with any substantive evidence of how the existing access to the land is used and/or previously over the last 10 years, particularly as there was a commercial business running from the agricultural parcel of land. Moreover, the personal circumstances of the appellant's in this regard, does not outweigh any provisions or limitations under the GPDO.
13. On the basis of the evidence before me, insufficient evidence has been provided to demonstrate that on the balance of probability the land where the private way is to be constructed comprises of an agricultural unit and the

private way is reasonably necessary for the purposes of agriculture. I cannot be satisfied that the proposal is permitted development and as such I must find it is not. Therefore, the proposal would not comply with the express terms of permitted development set out in Schedule 2, Part 6, Class B (d) of the GPDO.

14. As the proposal would not be permitted development, it is not necessary for me to consider the prior approval application any further including whether the proposed development would be acceptable in siting and means of construction terms.

Conclusion

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

K A Taylor

INSPECTOR