The Planning Inspectorate

Appeal Decision

Site visit made on 1 September 2020

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2020

Appeal Ref: APP/P4225/W/20/3252924
New Birtle Farm, Birtle Road, Birtle Bury BL9 6UT

- 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) Order 2015 (as amended) (GPDO).
- The appeal is made by Mr M Tindale against the decision of Rochdale Metropolitan Borough Council.
- The application Ref 20/00411/AGR, dated 14 April 2020, was refused by notice dated 19 May 2020.
- The development proposed is a new building.

Decision

1. The appeal is dismissed.

Procedural Matter

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises the erection of an agricultural building for the storage of agricultural machinery and equipment. The Council dealt with the proposal on this basis and so shall I.

Main Issue

3. The main issue is whether the proposal would amount to being permitted development under Schedule 2 Part 6, Class A (a).

Reasons

4. In order to satisfy Permitted Development (PD) rights for a new agricultural building under Part 6 Class A para A.(a) the land has to be a unit exceeding 5 hectares in size, and be on land in use for agriculture and which is so used for the purposes of a trade or business[1]. In other words, whether the site is in use as agricultural land and forms part of an agricultural unit, and the building must also be reasonably necessary for the purposes of agriculture.

5. I have been provided a plan entitled 'Plan of Farm Unit', this is on an Ordnance Survey (OS) base map, and has a blue line enveloping several parcels of land containing the National Grid Field (NGF) numbers 3240, 4237, 3030 and 3622, and their respective areas expressed in acres. The appellant states that this

[1] Schedule 2, Part 6, Interpretation of Classes A to C, D.1—(1) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO).

encompasses some 6.3 hectares of land. Based on the evidence before me, the land identified in the application is in excess of 5 hectares. I have also been provided a title plan (Ref. GM742122) for land referred to by the appellant as Birtle Dean. This comprises of a further 14.2 hectares, however I understand that this did not form part of the application.

6. Turning to whether the building is necessary for the purpose of agriculture, the appellant has provided a copy of a holding registration document (Ref. 44/623/8004) in his name dated 19 May 2006 (the holding). This document relates to the keeping of a herd/flock of sheep. Whilst the Council question the age of this document, the appellant claims that such a document does not require renewing on an annual basis. I have no good reasons to doubt this.

7. However, other than the address of the farm, the holding registration document certificate does not expressly refer to the area of land or the NGF numbers the holding relates to. Furthermore, whilst the appellant claims hay making and cattle have been part of the business, and that sheep were kept until 2018, these activities appear to be historic, and I have not been provided any detailed evidence of such current activities that would constitute an existing trade or business.

8. I have no obvious reason to doubt that the appellant retains the land, and that the proposed building is required to store tools, machinery and the quad bike referred to in his appeal statement. However, irrespective of the fact that a part of the land is currently used for the grazing of the appellant's horses, the use of a building for storage purposes is not, I find, a sufficient demonstration or evidence of an agricultural enterprise operating on the land.

9. The Council have also raised concerns with regards to the size of the parcel of land upon which the building would be constructed. This is because to benefit from these PD rights it is also necessary for the development to meet the requirements set out in paragraph A.1, which states among other things, development is not permitted by class A if (a) the development would be carried out on a separate parcel of land forming part of the unit which is less than 1 hectare in area.

10. The submitted 'Plan of Farm Unit' shows that the appeal site falls within NGF number 3030, which the Council state is 0.42 hectares in area. Whilst the Council claim that this constitutes a separate parcel of land, there is a field access gate that provides a physical and functional relationship with the adjacent field, which I was able to observe onsite. Therefore, I have no good reason to conclude that it is distinctly separate. In considering this matter I have taken into account the two court decisions[2] which the appellant has provided. However, this does not affect my findings above, regarding whether the building is reasonably necessary for the purposes of agriculture.

11. I have been provided three appeal decisions which the appellant considers pertinent to this appeal with regards to planning policy. In two[3] of these decisions the Inspector found that the Framework does not require evidence of necessity, and so long as the building is used for agriculture that this is in itself

[2] Hancock v SSE & Torridge DC [1989] JPL 99 and in Tyack v SSE & Cotswolds DC [1989] 1 WLR 1392
[3] APP/T4210/W/16/3151468 & APP/Z2315/W/17/3170899

a test of reasonable necessity. In the third[4] decision, despite the Council stating there was insufficient evidence to demonstrate reasonable necessity, the Inspector found that neither was there any evidence that it was intended to be for non-agricultural use, and that the design and layout of the building were agricultural in nature.

12. However, the above appeals related to applications for planning permission, were it is necessary to determine them in accordance with the policies development plan. Whereas, the appeal before me relates to the refusal to grant approval under the GPDO. In this instance development must consist of that described in Class A and satisfy the criteria set out in paragraph A1. Therefore, the above appeals are not directly comparable in this regard.

13. I note that the Council have not raised concerns regarding the siting, design and external appearance of the proposed agricultural building. However, this does not affect my findings above.

14. Consequently, based on the evidence before me, I am unable to find that the agricultural land meets the requirements of Schedule 2 Part 6, Class A of the Order, and that the building would be reasonably necessary for the purposes of agriculture. As such the agricultural building would not be permitted development under Schedule 2 Part 6, Class A of the GPDO.

Conclusion

15. For the reasons given above and having regard to all other matters raised the appeal is dismissed.

R Cooper

INSPECTOR

[4] APP/R2330/W/18/3198749