
Appeal Decision

Site visit made on 11 August 2020

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 02 October 2020

Appeal Ref: APP/X1545/W/20/3253801

Braxted Fruit Farm, Braxted Park Road, Great Braxted, Essex, CO5 0QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval in accordance with Article 3, Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr J. Purdy against the decision of Maldon District Council.
 - The application Ref AGR/MAL/20/0338, dated 9 March 2020, was refused by notice dated 20 April 2020.
 - The development proposed is prior notification for an agricultural storage barn.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed building is sited on agricultural land and therefore benefits from the permitted development rights set out in Article 3, Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) so that an agricultural storage barn can be constructed using the prior notification process.

Reasons

The site and its use

3. The appeal site is on land to the rear of a house on Braxted Park Road. It is not visible from the road and is accessed from Braxted Park Road via a drive on the other side of a paddock from the site itself. Along the side adjoining the paddock it has a tall wooden fence with high wooden gates at the end of the entrance track.
4. The site itself is undefined on the ground. The area around the site and the site itself are in an untidy condition. The area is occupied by derelict buildings, piles of rubble, wood, tree trunks, plant and machinery. Caravans and old tractors are visible either on or around the site. There is no evidence of current agricultural use of the land. The site appears to be unused for any specific purpose apart from the presence of derelict buildings and the storage of miscellaneous materials.

Compliance with the relevant part of the Order

5. For the appeal proposal to benefit from the permitted development rights, set out in Schedule 2, Part 6, Class A of the Order the development must, amongst other things, be carried out on agricultural land. For the purposes of Part 6 of the Order the land must have been in agricultural use before the works applied for begin.
6. It is clear from the appellant's statement at paragraph 1.1 that the site is not currently used for agricultural production. It was also clear from observations that I made at the site visit that there was no agricultural use being made of the land. Furthermore, my colleague's appeal decision APP/X1545/C/18/3206563 dated 8 May 2019 would appear to support my view.
7. As a consequence of the land not being in agricultural use it cannot benefit from the permitted development rights set out in Schedule 2, Part 6, Class A of the Order.

Other Matters

8. The appellant has referred to the need for a building on the holding, the Department for Food Agricultural and Rural Affairs (DEFRA) payments he receives and the appropriateness of the size and design of the building for its purpose and locality. Whilst these help my understanding of the operation of the holding in general, they are not relevant to this appeal as the main issue to be considered under the Order is whether the site is agricultural land, prior to the commencement of the development for which prior approval is sought.
9. The Council has referred to the access way that is included within the red line plan submitted with the application. I note the construction of this access way is not included within the description of the proposal as part of this appeal. I also note that the access way appears to have been the subject of enforcement action by the Council, with the enforcement notice being upheld. Whilst I have had regard to the presence of the access way and what the Council has stated, it has not added any weight to the conclusion I have reached on this appeal. Furthermore, if the Council is correct then it has control over the presence of the access way in this location.

Conclusion

10. Having had regard to all matters before me I hereby dismiss the appeal.

Peter Mark Sturgess

INSPECTOR