



Appeal Decision

Site Visit made on 03 February 2021

by S Thomas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2021

Appeal Ref: APP/P1615/W/20/3262483

Pitts Mill, Oridge Street, Corse, Gloucester, GL19 3DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr & Mrs J Biddlecombe against the decision of Forest of Dean District Council.
 - The application Ref P0375/20/AG, dated 16 November 2019, was refused by notice dated 4 May 2020.
 - The development proposed is described as erection of a general purpose, steel portal frame, sheet tin clad agricultural building with two hard standing apron areas. (Re-submission).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, the appellants' submitted further information in the form of an Ecological Method Plan¹. This was to address the Council's concerns regarding the impact of the proposal on protected species. The Council confirm, on the basis of this information that this has overcome their concerns on this matter. Having reviewed this document, I have no reason to take a different view and am satisfied that no harm would result to protected species as a result of the proposed development.
3. There is a dispute between the parties as to whether the proposal comprises permitted development. I am dealing with this matter in light of the *New World Payment* Judgement². It is therefore necessary for me to make a determination on this issue.

Main Issue

4. The main issues are (i) whether the proposal would be permitted development (PD) under Schedule 2, Part 6 Class A of the GPDO and (ii) the effect of the siting, design, and external appearance of the proposed development on the character and appearance of the area.

Reasons

5. Schedule 2, Part 6 Class A (A) of the Town, and Country Planning (General Permitted Development Order) (England) Order 2015 (as amended) sets out the prior approval process.

¹ Construction Ecological Method plan (CEMP) AVA Ecology Surveys and Contracting 28/04/2020

² New World Payphones Ltd v Westminster City Council [2019] EWCA Civ 2250

6. In order to satisfy PD rights for a new agricultural building under Part 6 Class A para A; the land has to be a unit exceeding 5 hectares in size, be in use for agriculture; and be so used for the purposes of a trade or business. In other words, whether the site is in use as agricultural land and forms part of an agricultural unit, the building must also be reasonably necessary for the purposes of agriculture. Paragraph A.2. (2) of Class A requires (amongst other things) the developer to apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design, and external appearance of the building.
7. In this case the evidence indicates the appellants' have a land holding of over 5 hectares with the Pitts Mill site and the site at Gloucester Road, Highleadon. The site location plan has been drawn to exclude the dwelling and stables at Pitts Mill and the outdoor manege. However, it is clear that the stables and the manege, both sited within the wider area of the site, are part of the overall land holding. During my visit I observed horses within the manege together with horses and a donkey grazing in the adjacent field to the application site for the proposed building within the applicant's land holding. I observed within the stables area farm machinery, stabling for horses and storage of hay within the complex.
8. On the evidence before me and from my observations at my site visit, it is far from clear that there is any agricultural activity occurring at the site. However, the land was clearly been being used in part for equestrian purposes. Similarly, the evidence is not clear on the use of the site at Gloucester Road. The appellant's evidence indicates that they take cuts of winter forage from the land and requires the new building to store this during the winter. Whilst this may be the case, in the absence of seeing any livestock within the complex it is not clear this is done other than to serve the needs of the horses at the site.
9. In addition, the appellants' indicate they run an agricultural contracting business associated with the land. However, whilst I acknowledge the need to store machinery, it would appear the function of this business is to provide contracting services for other agricultural holdings. Taken the above into consideration, I am not persuaded that the proposed building is reasonably necessary for the purposes of agriculture within the identified unit.
10. Therefore, based on the available evidence I am not able to find that the proposal meets the requirements of Schedule 2 Part 6, Class A of the Order; in terms of whether the building is reasonably necessary for the purposes of agriculture. As such the agricultural building could not be permitted development under Schedule 2 Part 6, Class A of the GPDO.
11. 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, design, and appearance terms.

Conclusion

12. For the reasons above, the appeal is dismissed.

S Thomas

INSPECTOR