
Appeal Decision

Site Visit made on 18 May 2021

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th June 2021

Appeal Ref: APP/C1435/W/21/3266647

Dower House Farm, Possingworth Lane, Waldron, TN22 5HJ

- 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 E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Andrew Tyler against the decision of Wealden District Council.
 - The application Ref WD/2020/7059/AD, dated 5 November 2020, was refused by notice dated 4 December 2020.
 - The development proposed is described as a log and timber store.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 6, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a log and timber store at Dower House Farm, Possingworth Lane, Waldron, TN22 5HJ in accordance with the terms of the application, Ref WD/2020/7059/AD, dated 5 November 2020, and the plans submitted with it: 2065/01 Rev A Existing Block and Site Location Plan; 2065/02 Rev A Proposed Block and Site Location Plan; and 2065/03 Rev A Timber and Log Store Building.

Procedural Matter

2. Although accepted by the Council, interested parties dispute that the proposal falls within the scope of permitted development under Article 3(1) and Schedule 2, Part 6, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). I have therefore determined this appeal in accordance with the judgement in *New World Payphones Ltd v Westminster City Council* [2019] EWCA Civ 2250 and I return to this matter below.

Main Issues

3. The main issues are:
 - i) whether the proposal falls within the definitional scope of Schedule 2, Part 6, Class E of the GPDO; and
 - ii) if so, the effect of the siting of the proposal on the living conditions of the occupiers of The Dower House, with particular regard to noise.

Reasons

Class E

4. The *New World Payphones Ltd* judgement sets out that “on an application to an authority for a determination as to whether its “prior approval” is required, the authority is bound to consider and determine whether the development otherwise falls within the definitional scope of the particular class of permitted development”.
5. Schedule 2, Part 6, Class E of the GPDO sets out that the carrying out on land used for the purposes of forestry of development reasonably necessary for the purposes of forestry, including works for the erection of a building, is permitted development, subject to certain restrictions and conditions.
6. Dower House Farm comprises approximately 11 acres of pasture, 5 acres of woodland and a 4 acre yard with a complex of light industrial and warehouse buildings for storage and distribution. The site of the proposed building is within this complex and is used for storing and cutting of timber and for parking forestry machinery. There is no indication within Class E that the land has to be used solely for forestry. With timber being sourced from the woodland on the holding and handled on site I find that, as a matter of fact and degree, the land is used for the purposes of forestry.
7. The proposed building is intended mainly to store and dry logs and timber in accordance with Government requirements that logs be dried before sale to the consumer. The appellant has not provided any indication of the specific quantum of timber to be stored in the proposed building as justification for its size but has explained that the woodland would be on a 10-year coppice rotation. Furthermore, Class E sets no limit on the size of a forestry building other than when within 3 km of an aerodrome and it requires that a building is *reasonably* necessary rather than *absolutely* necessary.
8. The existing buildings on the holding all appeared to be in active use at the time of my visit and I have no evidence from the Council or interested parties to the contrary. I note the references from interested parties to Dunly Wood, which is also within the appellant’s ownership, with an existing large building. However, the appellant’s evidence is that this is in use by another party and not available to the appellant. I am therefore satisfied that the proposed building is reasonably necessary for the purposes of forestry.
9. As, from the evidence before me, the proposal does not relate to a dwelling, is not within 3 km of the perimeter of an aerodrome or 25 m of a trunk or classified road and would not be used for storing fuel for or waste from a biomass boiler, none of the restrictions set out in paragraph E.1 of Class E apply.
10. I therefore conclude that the proposal falls within the definitional scope of Schedule 2, Part 6, Class E of the GPDO.

Living conditions

11. The nearest dwelling to the appeal site is The Dower House. The closest part of the dwelling to the appeal site is a single-storey extension accommodating a kitchen / diner, approximately 21 m from the site. The extension opens onto a small terrace which provides access to the garden. At the time of my site visit,

a tall fence was under construction on top of a bank along the boundary of the appeal site with The Dower House. Nevertheless, the existing activities within the Dower House Farm building complex are likely to cause a degree of disturbance for the occupiers of The Dower House given the proximity of the properties to each other.

12. The proposal is for the erection of a store building and the evidence before me indicates that this is the proposed use. I do not doubt that this is the appellant's intention. I have no evidence that the noise associated with the moving of logs into or out of the store or their storage would be unduly noisy or over such a period of time as to consequently give rise to unacceptable disturbance, notwithstanding the proposed building's proximity to The Dower House. This is particularly as the access into the building would be from the side away from that property.
13. Notwithstanding the description of the proposed development, the main parties disagree on whether or not the future use of the proposed building would be restricted solely to storage. However, even if the Council is correct that the specific use of the building could change providing that it remains in general forestry use, I have no evidence before me that there are any restrictions on the use of the site for the processing of timber from woodland at Dower House Farm or other woodland. This could therefore continue to take place as now without the proposed building.
14. I am not persuaded that the proposed building would lead to a significant intensification in the existing processing activities on the site. Furthermore, depending on where processing takes place, the proposed building could act as a buffer, reducing any noise experienced by the occupiers of The Dower House. As the Council acknowledge, there are mechanisms through other legislation if a statutory noise nuisance is demonstrated.
15. I therefore conclude that the siting of the proposed building would not be unacceptably harmful to the living conditions of the occupiers of The Dower House.

Other Matters

16. Interested parties have referred to the proximity of the appeal site to the boundary of the High Weald Area of Outstanding Natural Beauty (AONB) with an indication that Possingworth Lane is within the AONB. The lane is also indicated to be a public right of way. However, the complex of buildings at Dower House Farm is already in active use and I have no persuasive evidence that the proposal would result in significant additional activity or unnecessary vehicle movements along Possingworth Lane.
17. The proposed building would occupy a space in the corner of the existing complex of buildings away from Possingworth Lane. Its design and appearance would harmonise with these existing buildings in its size, form and proposed materials and are therefore acceptable. The proposal would therefore not adversely affect the landscape or scenic beauty of the AONB. I have no indication that the High Weald AONB Unit raised any objection to the proposal.
18. I note the concerns over the existing activities at Dower House Farm, the removal of trees and the extension of the area of hardstanding, but these are matters outside the scope of this appeal. Accordingly, these concerns have not

been determinative in my decision, nor has the planning history of Blackdown Timber Yard.

Conditions

19. Any planning permission granted for the proposed building under Article 3(1) and Schedule 2, Part 6, Class E of the GPDO is subject to conditions set out in paragraphs E.2(e) and E.2(f). These specify that the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out in accordance with the details approved and must be carried out within a period of 5 years from the date on which approval was given.

Conclusion

20. For the reasons given above, and having had regard to the other matters raised, the appeal is allowed and prior approval is granted.

Martin Small

INSPECTOR