



Appeal Decision

Site visit made on 1 September 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2021

Appeal Ref: APP/R0660/W/21/3274151

Grass Lands Nursey, Free Green Lane, Over Peover WA16 9QY

- 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) (England) Order 2015 (as amended).
 - The appeal is made by Mr S Watmore against the decision of Cheshire East Council.
 - The application Ref 21/1694M, dated 25 March 2021, was refused by notice dated 22 April 2021.
 - The development proposed is a horticultural storage building for the nursery.
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Decision

1. The appeal is allowed and is prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a horticultural storage building for the nursery at Grass Lands Nursey, Free Green Lane, Over Peover WA16 9QY, in accordance with the application Ref 21/1694M, dated 25 March 2021, and the details submitted with it pursuant to Article 3(1) and Schedule 2, Part 6, Class A, paragraph A.2.(2).

Main Issues

2. The proposal is for the erection of a building within an agricultural unit in excess of five hectares under Schedule 2, Part 6, Class A of the GPDO. In such circumstances an application must be made to the local authority to establish whether their prior approval is required in respect of siting, design and external appearance. The Council raises no issues in respects of design and appearance.
3. Therefore, the main issues are whether or not the proposal would be permitted development and the effects of the siting of the building on the character and appearance of the area.

Reasons

Whether permitted development

4. Paragraph A.1(b) to Class A of the GPDO is that such development is not permitted if 'it would consist of the erection or extension of any agricultural building on an established agricultural unit (as defined in paragraph X of Part 3 of this Schedule) where development under Class Q or S of Part 3 (changes of use) of this Schedule has been carried out within a period of 10 years ending with the date on which development under Class A(a) begins.'

5. Therefore, in summary, for Part 6, Class A rights to remain available within an agricultural unit, development under Class Q cannot have been 'carried out' within a period of ten years beforehand. There is no dispute that the appeal site falls within an agricultural unit so defined; that was a precursor to two previous successful applications for the conversion of agricultural buildings to dwellings under Schedule 2, Part 3, Class Q of the GPDO.
6. One agricultural building within the same unit was undergoing construction at the time of my site visit. Application Ref 16/2888M, a class Q application, relates to that building. That application was considered via appeal, dated 1 March 2018, via which the Inspector certified that *'The Council failed to notify the Appellant of its decision on prior approval Application 18/2888M within 56 days, and the proposed use and conversion of the former agricultural building amounts to permitted development in accordance with the provisions of Class Q...'*. Circumstances at that building have moved on, and the Council have set out that construction relates to implementing subsequent permission Ref 20/0375M operationally.
7. Another building, similarly granted permission for conversion to residential use under Class Q (Ref 19/2100M) has remained in use as storage. The appellant states that that 'this Class Q proposal has not been implemented and the applicant has no intention of doing so.' Accordingly, and with reference to paragraph four of this decision, the appellant contends that Class Q approvals within the unit have not been 'carried out', and therefore the proposal before me would be permitted development
8. Development is defined in paragraph 55 of the Town and Country Planning Act 1990 (the Act) as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. The appellant states that they have no intention of implementing the development permitted under Class Q. From my observations on the site visit, the first building referred to above was being constructed in line with a subsequent approval (Ref 20/0375M) notwithstanding any planning history. The second building was used for storing materials related to the nursery and therefore development under Class Q has not been carried out accorded its ordinary meaning in respect of it either. As such, the proposal before me would comply with paragraph A.1(b) of Schedule 2, Part 6, Class A of the GPDO and is permitted development. Clearly, were the Class Q permission to be carried out in respect of the second building, the proposal would cease to be permitted development in line with my reasoning above.
9. Part 6, Class A of the GPDO does not define reasonably necessary. From my observations on the site visit, the operations at the nursery are extensive and many of the buildings appeared to be in use already. The proposed building would be used for typical functions associated with agriculture. In this case, the storage of machinery and supplies for the nursery, which I understand is an ongoing concern for the business.
10. Overall, what is of more relevance to the notion of a business involved in agriculture under the GPDO is whether or not it has been established that the building would be reasonably necessary for the purposes of agriculture within that unit. Based on the evidence before me as set out above, I am satisfied this would be the case.

11. Taking these considerations into account, I conclude that the proposal would be reasonably necessary for the purposes of agriculture within that unit under paragraph A. of Schedule 2, Part 6, Class A of the GPDO.

Siting of the Building

12. The proposed building would be located in an area of land which appears to be unused for current activities at the site, adjacent the customer car park and separate from the main grouping of buildings of the nursery. The building would be of significant scale at fifty metres in length, eighteen metres wide, and a ridge height of seven metres, although this would fall within the allowable limits set out in the GPDO. It would be of a functional aesthetic consistent with the characteristics of its surroundings.
13. I take on board the Council's point that generally speaking, buildings of this type are generally grouped together as is the case for other buildings at the site. However, given the rural location it would not appear incongruous in its surroundings, despite the separation. Moreover, it would be screened in some views by the woodland and the mature trees lining Free Green Lane and it would neither obtrude into an open landscape, nor be prominent or incongruous in views from surrounding vantage points relative to its surroundings.
14. For the above reasons, I conclude that the siting of the building proposed building would suitably conserve the character and appearance of the area, and, accordingly, that no conflict arises with the relevant provisions of section A.2(2)(a)(i) of the GPDO in this regard.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted. I would draw the appellant's attention to the conditions specified in the GPDO to which the development hereby permitted must adhere (under Schedule 2, Part 6, Class A, paragraphs A.2(2)(v) and (vi), A.2(5), (6) and (7)).

C McDonagh

INSPECTOR