



Appeal Decision

Site Visit made on 16 November 2021

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2021

Appeal Ref: APP/Z1510/W/21/3273737

Kofali Farm, Purls Hill, Great Maplestead, Essex CO9 2QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 H Kofali against the decision of Braintree District Council.
 - The application Ref 20/01984/AGR, dated 24 November 2020, was refused by notice dated 18 March 2021.
 - The development proposed is described as 'agricultural or forestry development - Erection of a general purpose agricultural building'.
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Decision

1. The appeal is allowed and 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 erection of a general purpose agricultural building at Kofali Farm, Purls Hill, Great Maplestead, Essex CO9 2QX in accordance with the application Ref 20/01984/AGR made on 24 November 2020 and the details submitted with it.

Background and Main Issue

2. Under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended ('the GPDO'), the erection of a building reasonably necessary for the purposes of agriculture is permitted development, subject to certain limitations and conditions. These include a requirement to apply to the local planning authority before beginning the development for a determination as to whether prior approval will be required as to the building's siting, design and external appearance.
3. The appeal relates to the Council's decision on an application made for determination as to whether prior approval was required for an agricultural building that the proposal would not constitute permitted development under the provisions of the GPDO. The Council has subsequently confirmed that it considers the siting, design and external appearance of the proposed building to be acceptable.
4. The main issue is therefore whether or not the proposed development benefits from the provisions of Schedule 2, Part 6, Class A of the GPDO.

Reasons

5. Kofali Farm comprises an undulating parcel of approximately 17 hectares of land with an access from Church Street. To be permitted under Class A, the

agricultural building proposed on the site must be undertaken on 'agricultural land comprised in an agricultural unit' and 'reasonably necessary for the purposes of agriculture within that unit'.

6. For the purposes of Class A, 'agricultural land' is defined as land which, before development permitted by this Part is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouse or garden. There is no definition within the GPDO of the meaning of 'agriculture', but the use of the land for grazing of sheep and maintenance of a herd for breeding would be consistent with examples of agricultural activities listed at s336(1) of the Town and Country Planning Act 1990.
7. The appellant advises that the farm has 130 pedigree sheep. At the time of my visit there were a fairly significant number of sheep apparent on the site as well as workers, and I further note the Council refers to evidence of livestock onsite during visits on 28 September and 18 December 2020. The information before me also includes purchase invoices for livestock, hay, machinery and other consumables to support the sheep production enterprise; and indicate that a farm worker is employed to care for livestock.
8. The Council is concerned that it has not been demonstrated that the land is used as part of an agricultural trade or business, and I acknowledge that there is no clear evidence that produce generated is being sold on at the current time. Nevertheless, I do not consider that necessarily precludes a finding that the enterprise is operating for the purposes of an agricultural trade or business.
9. The evidence before me in this case includes details of breeding programmes and suggested stock numbers within a business plan, and I have no compelling reason to consider the timescales presented to be unrealistic. With regard to this information, I consider that the time taken to breed and rear livestock ready for sale would reasonably result in some delay between establishing the herd on the site and income being generated. The appellant's business plan and cashflow projections concern future predictions, but from the submitted evidence and my observations at my visit, it seems to me that there is a realistic prospect of receipts in the near future as livestock becomes ready for sale, including through the appellant's retail businesses.
10. I note a letter from an agricultural consultant to the Council dated 8 July 2021 which advises that the Kofali Farm business is not viable and is unlikely to become viable for the foreseeable future, commenting that the appellant's lambing percentages are unachievable and referring to a reliance on securing additional land at low cost. However, this was not prepared in relation to the appeal proposal specifically. Moreover, in considering a proposal under Class A, there is no stipulation regarding the size of any trade or business, nor requiring that it is necessarily profitable at the time of an application. Even if the projections within the appellant's business plan are over-optimistic, I am not persuaded having regard to the evidence before me as a whole that future growth and development of the enterprise from its current basis is so unrealistic that it could not be reasonably described as a business or trade.
11. On the basis of the available information and my observations at the site, I consider as a matter of fact and degree that the Kofali Farm enterprise is sufficiently established with plans in place to grow and expand, and that the land is currently in agricultural use for the purposes of a trade or business. It would therefore comprise agricultural land within the meaning of Class A.

12. I note that the GPDO further defines 'Agricultural unit' in this context as agricultural land which is occupied as a unit for the purposes of agriculture, including any dwelling or other building on that land occupied for the purpose of farming the land by the person who occupies the unit, or any dwelling on that land occupied by a farmworker. To my reading, this definition does not specify that a dwelling or other building is a prerequisite for a holding to be considered a unit, rather that an agricultural unit could include such a dwelling or other building alongside agricultural land. Accordingly, while there may be no other permitted dwelling or building on the site, I do not find that this disqualifies it from comprising an agricultural unit for the purposes of Class 6.
13. For these reasons, I am satisfied that the development would be undertaken on 'agricultural land comprised in an agricultural unit'. The appellant advises that the proposed building is intended to provide secure storage for machinery, equipment, feed, hay and variable inputs such as grass seed and fertiliser which I understand is an ongoing concern for the business, particularly in light of previous thefts and difficulty in obtaining insurance cover. From the evidence before me, such storage would be required to support the farm business operating on the agricultural unit in future, including through maintenance of the land and livestock. There is no compelling evidence before me that the building has not been designed for the purposes of agriculture or to appropriately address these requirements.
14. Based on the evidence before me as set out above, I therefore conclude that the building would be reasonably necessary for the purposes of agriculture within the unit under paragraph A of Schedule 2, Part 6, Class A of the GPDO.
15. Vegetation would provide for significant screening of the building from the south and west, and while there would be views of it from the east, it would be of functional appearance consistent with the generally rural character of its surroundings. I therefore agree with the Council that the siting, design and external appearance of the building would be acceptable. Prior approval should therefore be granted.

Conclusion and Conditions

16. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted. Schedule 2, Part 6, Class A paragraphs A.2(2)(v) and (vi), A.2(5), (6) and (7) specify conditions to which the development hereby permitted must adhere, and it is not necessary to repeat these as part of my formal decision.

J Bowyer

INSPECTOR