
Appeal Decision

Site visit made on 29 November 2021

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2021

Appeal Ref: APP/Y9507/W/21/3270409

Land to the North of Blind Lane, Lurgashall, Petworth GU28 9ET

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Kane Adams against the decision of South Downs National Park Authority.
 - The application Ref SDNP/20/03482/APNB, dated 16 August 2020, was refused by notice dated 5 October 2020. The development proposed was originally described as: 'Two separate barns. See attached Drawing with Notes.'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal represents permitted development by virtue Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 2015 GPDO).

Reasons

3. Class A, Part 6, Schedule 2 of the 2015 GPDO establishes permitted development rights for the carrying out on agricultural land comprised in an agricultural unit of 5 hectares in area of a) works for the erection, extension or alteration of a building; or b) any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within that unit.
4. Paragraph A.1(i) confirms that development is not permitted by Class A if it would consist of, or include, the erection or construction of, or the carrying out of any works to, a building, structure or an excavation used or to be used for the accommodation of livestock, or for the storage of slurry or sewage/sludge where the building, structure or excavation is, or would be, within 400 metres of the curtilage of a protected building.
5. Paragraph A.2 (1)(a) confirms that development is permitted with the condition that where the development is carried out within 400 metres of the curtilage of a protected building, the building, structure, excavation or works resulting from the development are not used for the accommodation of livestock except in the circumstances described in paragraph D.1(3) of Part 6.
6. Paragraph D.1(3) relates to the interpretations of Classes A to C of Part 6 and confirms that the circumstances referred to above are a) that no other suitable

building or structure, 400 metres or more from the curtilage of a protected building, is available to accommodate the livestock; and b)(i) that the need to accommodate the livestock arises from quarantine requirements, or an emergency due to another building or structure in which the livestock could otherwise be accommodated being unavailable because it has been damaged or destroyed by fire, flood or storm; or (ii) in the case of animals normally kept out of doors, they require temporary accommodation in a building or other structure because they are sick or giving birth or newly born, or to provide shelter against extreme weather conditions.

7. The proposed location for the barns is within 400 metres of a protected building, and the original application form categorically states that the proposed building would be used to house livestock. This matter was subsequently clarified on a revised drawing to confirm that the proposed barns would be used as emergency shelters in adverse weather conditions, storage of animal feeds, bedding etc. and agricultural equipment. The appellant confirms that the livestock in question are sheep which live outside. However, in adding this note to the proposed drawing, the appellant is of the view that the proposal should benefit from the circumstances identified within Paragraph D.1(3) and that the buildings would provide the temporary accommodation for the reasons referred to in D.1(3)(b)(ii).
8. Paragraph A.1.(i) is explicit in its restrictions regarding proximity to protected buildings. On this basis, the proposal would not be permitted development. The additional interpretation provided in Paragraph D.1(3) is an important element of the permitted development right as it provides a degree of flexibility in how buildings are used. However, in my judgement, this flexibility should not be used as the regular interpretation of Part 6, Class A. It seems to me that the interpretation in Paragraph D.1(3) provides a form of insurance policy which enables buildings to be used in this manner in unusual circumstances. The relevant paragraph makes reference to emergency situations, extreme weather conditions, sickness, and temporary accommodation for giving birth and for animals newly born.
9. Giving birth is a fundamental aspect of livestock farming and a matter that can be readily planned for. The same applies for animals that are newly born, and perhaps to a lesser extent, sickness. Moreover, providing shelter against extreme weather conditions does not, in of itself, provide a compelling reason for the proposal. Using the interpretation of Class A to justify the buildings simply on this basis does not implement the permitted development right in its correct manner. My interpretation is that Paragraph D.1(3) provides flexibility in how buildings may be used in the future where circumstances dictate. It should not be used as a means to justify the location of new buildings because this would be in direct conflict with the specific permitted development right. Accordingly, in my view, the permitted development right is not designed to enable buildings to be erected for these specific reasons, rather that when circumstances dictate, a building allowed under the permitted development right could be used for this purpose.
10. In addition, Paragraph D.1(3)(a) explicitly requires that no other suitable building or structure, 400 metres or more from the curtilage of a protected building, is available to accommodate the livestock. I have no evidence before me that this would not be the case, and consequently, when combined with my

concerns identified above, I am satisfied that Paragraph D.1(3) does not provide justification for the proposal.

11. Accordingly, I conclude that the proposal would not represent permitted development under Schedule 2, Part 6, Class A of the 2015 GPDO. On this basis, there is no need to consider matters regarding the timing of the decision or the siting, design and external appearance of the buildings because any findings on these matters would not alter my overall conclusion.

Conclusion

12. For the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR