



Appeal Decision

Site visit made on 7 June 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2022

Appeal Ref: APP/B2355/W/21/3289232

Higher Valley View, Tunstead Lane, Stacksteads, Bacup OL13 8NE

- 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 Mrs I Alderson against the decision of Rossendale Borough Council.
 - The application Ref 2021/0528, dated 1 September 2021, was refused by notice dated 29 September 2021.
 - The development proposed is an agricultural building.
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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 A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an agricultural building at Higher Valley View, Tunstead Lane, Stacksteads, Bacup OL13 8NE in accordance with the terms of application ref 2021/0528, dated 1 September 2021, and the plans submitted with it.

Main Issues

2. The main issues are:
 - whether the proposal would be development permitted under Schedule 2, Part 6 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO); and
 - if so, whether or not the proposal would satisfy the detailed prior approval matters regarding siting, design and external appearance.

Reasons

Whether Permitted Development

3. Class A of Part 6 of the GPDO permits the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more 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. The Council argues that the proposed building is not “reasonably necessary for the purposes of agriculture” thus it would fall outside of the scope of the

development permitted under Class A. The Council's reasoning is that the land appears to be in use predominantly for equestrian practices which do not constitute an agricultural use.

5. The appellant submitted with the appeal, details of the land ownership which show that the appeal site forms part of a larger area of land amounting to over 5 hectares. Details were also provided as part of the appeal of the areas of land given over to horses. This information states that the area used for horses amounts to 2.43 hectares out of a total land holding of 7.88 hectares.
6. There is no definition of agricultural land in the GPDO. However, the Town and Country Planning Act 1990 does set out examples of agricultural activities. This includes the use of land as grazing land. The case law¹ referenced by the appellant has established that the keeping of horses which involves activities other than putting them out to graze would not be an agricultural use. The appellant states that grazing of the land provides the primary source of food for the horses, especially from Spring to Autumn. On the basis of the appellant's information, the main source of food for the horses would appear to be the grazing of the land. Based on the submitted evidence and my observations, I am persuaded that in this case, the keeping of the horses would come within the definition of agriculture.
7. Even if I were to agree with the Council's contention that the use of the land for the keeping of the horses does not constitute an agricultural use, based on the submitted evidence, there would remain more than 5 hectares of land available for agricultural purposes. The appellant states that the majority of the land is used for sheep and haymaking and has provided details of the number of sheep currently on the land. This tallies with my observations during my site visit, where I observed that the adjacent area within the land holding was used for keeping sheep. I also observed a variety of agricultural implements including plant and machinery stored around nearby buildings on the land. In addition, the appellant's evidence highlights that her grandson who helps with the running of the operation possesses an agricultural holding number.
8. Applying the balance of probability, and based on the evidence submitted and my observations, I am persuaded that the land for the proposed building forms part of an agricultural unit within the meaning of the GPDO.
9. As to whether the building would be reasonably necessary for the purposes of agriculture, the building itself and the uses carried on within it need to be reasonably necessary for the use of the land as an agricultural unit. The stated uses of the building would be for storing, in a secure way, animal food, animal medicines and agricultural machinery to maintain the land. On this basis, I am satisfied that the building and these uses would be reasonably necessary for the purposes of agriculture within the agricultural unit.
10. There appears to be no dispute between the parties that the proposal would meet the criteria set out at paragraph A.1(a) – (k) of Class A.
11. Based on the submitted evidence, I am persuaded that the site is in use as agricultural land and forms part of an agricultural unit, and the building would be reasonably necessary for the purposes of agriculture within that agricultural unit. Based on the evidence, I am also satisfied that the proposal would meet

¹ Belmont Farm v MHLG [1962] 13 P&CR 417

the requirements of paragraph A.1 of Schedule 2, Part 6, Class A of the GPDO. It would therefore constitute development permitted under Class A, subject to the prior approval of certain matters.

Prior Approval Matters

12. Paragraph A.2(2)(i) of Schedule 2, Part 6, Class A of the GPDO requires 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.
13. The building would be located in the countryside near to a small group of existing buildings, reasonably close to the appellant's property. The site is located in a relatively elevated area of countryside with scattered individual properties, including a number of agricultural buildings. There is a Public Right of Way (PRoW) nearby.
14. Given its location and the sloping topography, the proposed building would not be sited in a visually prominent location within the landscape and would be seen against the backdrop of the sloping land from many vantage points. Although it would be visible from the PRoW, it would be viewed in the context of the agricultural character and appearance of the area that includes some scattered farm buildings including those of a similar scale and design. As such, the building would not be unduly prominent, nor would it appear conspicuous or alien.
15. The submitted plans show that the proposed building would be 12.19 metres wide, and 18.28 metres long set under a pitched roof, that is shown as being 5.3 metres at the highest point and 3.65 metres at the eaves. The scale and design of the proposed building is not unusual given its proposed uses and in the context of similar agricultural buildings that I observed in the local area.
16. The concrete panel walls with timber cladding to the upper sides, cement roof sheets and sliding timber doors as indicated on the submitted plans, are broadly in keeping with the overall agricultural building design. At my site visit I noted a variety of materials are used in agricultural buildings in the surrounding area.
17. Accordingly, I conclude that the siting, design and external appearance of the proposed building would be acceptable.

Conclusion

18. For the reasons set out above, I conclude that the appeal should be allowed, and approval granted.

F Wilkinson

INSPECTOR