

Appeal Decision

Site visit made on 24 May 2022

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2022

Appeal Ref: APP/J3720/W/21/3288227

Crimsote Hill House, Crimsote Road, Crimsote CV37 8UE

- 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.
 - The appeal is made by Mr G Wright against the decision of Stratford-on-Avon District Council.
 - The application Ref 21/03132/AGNOT, dated 30 September 2021, was refused by notice dated 16 November 2021.
 - The development proposed is described as “steel portal framed agricultural building.”
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development above is taken from the application form. However, it is clear from the refusal notice, the appeal form and from the submitted evidence that the development also includes a ‘track’. The Council determined the proposal on that basis and so shall I, notwithstanding the application form description given above.
3. Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the ‘GPDO’) grants planning permission for the various classes of development described as permitted development in Schedule 2 of the GPDO.
4. Part 6 of Schedule 2 makes provision for permitted development on land used for agricultural and forestry purposes. As the agricultural unit in question is over 5 hectares, Class A applies and permits the carrying out on agricultural land... (a) works for the erection, extension or alterations of a building; or (b) any excavation or engineering operations, all of which are reasonably necessary for the purposes of agriculture within that unit. The development is then subject to a number of further limitations set out in Paragraph A.1.(a)–(k).
5. If the development is permitted, it must then meet a number of conditions set out in Paragraph A.2. Under condition A.2.(2)(i) the developer is required to apply to the Council for a determination as to whether the prior approval of the Council will be required as to the siting, design and external appearance of the proposed building, and to the siting and means of construction of the private way.

Main Issues

6. The Council contends that the proposal does not meet the definitional requirements in Paragraph A of Part 6 and has refused prior approval for the siting of the building and further hardstanding arising from the track.
7. In light of the above, *Smolas*¹ and the reasons for refusal, the main issues are:
 - Whether the proposal satisfies the requirements of the GPDO with regard to being permitted development, with particular regard to whether the site is 'agricultural land' and whether the development is 'reasonably necessary' for the purposes of agriculture, and
 - Whether or not prior approval should be granted for the proposed building and track with regards to the siting of the building, and the siting and means of construction of the track.

Reasons

Whether permitted development with regards to 'agricultural land' and 'reasonably necessary'

8. There is no definition of 'agriculture' in the GPDO, but section 336(1) of the Town & Country Planning Act 1990 describes agriculture. It provides an inexhaustive list that includes "horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock...the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to...agricultural purposes...".
9. For the purposes of Class A of Part 6, Paragraph D.1 interprets agricultural land to mean "land which, before development is 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".
10. At the time of my visit I saw that the land consisted of demarcated areas bounded by post and wire fencing. One field had sheep grazing on it. Another, further from the road, had wheat growing in it. According to the appellant's statement some 8.5 hectares (just over half) are for wheat growing and remainder to grass. Grazing livestock and growing crops are both common activities of agriculture.
11. However, in accordance with the definition of agricultural land there also needs to be the purpose of trade or business, something the Council disputes. On the application form the appellant has stated that the land has been in use for agriculture for the purposes of a trade or business for 100 years. This is a substantial length of time which the Council does not dispute. The appellant refers to needing to sell wheat direct at the point of harvest from the back of the combine harvester due to a lack of storage. In the absence of substantive evidence to the contrary, I find this amounts to a trade or business that would fall within the interpretation of 'agricultural land'. Even if the sheep are tenanted, that does not disqualify them being potentially part of the trade or business on the land.

¹ *Smolas v Herefordshire Council* [2021] EWHC 1663 (Admin)

12. The Council granted a previous Prior Approval² for the existing agricultural building on the land. In doing so it would have needed to be satisfied that the land was 'agricultural'. I have not been presented with any substantive evidence from either party that the land for the proposed building is now different or that circumstances have materially changed. The Council refers to comments from the Parish Council and third parties that the existing building is not being used as it was intended. In the absence of evidence I have to regard it as hearsay. Taking the various matters into account I am satisfied that the land the subject of this appeal is 'agricultural land' for the purposes of Class A of Part 6 of the GPDO.
13. I now turn to whether the proposed building and uses carried on within it and the track are 'reasonably necessary' for the purposes of agriculture. The Planning Practice Guidance describes the Prior Approval process as a 'light touch' and the GPDO only requires development to be *reasonably* [emphasis added] necessary, not absolutely.
14. The existing building, which I saw on my visit was sizeable, was granted under Prior Approval. In doing so the Council would have deemed it to be reasonably necessary for agriculture based on the appellant's case put forward at the time.
15. The appellant describes that the existing building is used for machine storage, equipment and additional items such as fertilizers, fencing equipment, sprays and concentrates for the livestock, but is not big enough to store hay, straw and corn. On the application form the appellant confirms that the proposed development is 'reasonably necessary' for the purposes of agriculture and submitted an Agricultural Justification Statement by way of explanation.
16. The proposed building would be large and measure approximately 24m x 12m x 6m high to eaves and 7.36m to roof ridge, but large buildings are permitted under Class A of Part 6 and there is nothing to suggest the building fails the permitted development limit for size. According to the appellant the building would be used for the 'storage of hay and straw and corn' to protect it from the elements and would allow the sale of grain at a later date after harvest, rather than from the back of the combine harvester. The appellant explains further that the proposed building would also be used to store fencing equipment and be a 'multifunctional general purpose agricultural building.'
17. It is not uncommon in the countryside to see bales of straw stored outside in fields, such that outside bale storage beside a hedge should not be a particular hardship to a farmer. There would also appear to be some duplication of uses for the proposed building considering the relatively small size of the agricultural unit and the existing large agricultural building already on site.
18. Nonetheless, the proposed building would be a fairly standard design with a rectangular plan-form and shallow pitched roof. It would have metal cladding sides and corrugated roof sheets all coloured 'Juniper Green', and a large roller shutter on its front elevation facing towards the road. Buildings of this nature are not an uncommon sight in the countryside, and indeed it would be similar to the existing building already on the land.
19. The Council has concerns that the design of the building lacks ventilation needed for crop storage. Yet the Council raises no issue with regard to the

² LPA ref: 19/00406/AGNOT approved 16 April 2019

building's design and external appearance, which is a permitted development limitation in Paragraph A.1.(d), and has not deemed that the design and external appearance of the building requires Prior Approval – indeed the second reason for refusal refers only to the 'siting' of the building. I have not been presented with any substantive evidence to suggest that grain cannot be stored in a multifunctional general purpose agricultural building of the design proposed. On the application form the appellant confirms the development is designed for agricultural purposes. Considering the evidence before me I am satisfied that the proposed building would be reasonably necessary for the purposes of agriculture, and in turn so would the proposed track to provide access to it.

20. To conclude on this main issue the proposed development would be on agricultural land and would be reasonably necessary for the purposes of agriculture and would therefore fall within the scope of Class A of Part 6 and would benefit from permitted development rights.

Prior approval

21. I now turn to consider whether prior approval should be granted with regards to the siting of the building and the siting and means of construction of the track, to comply with the conditions in paragraph A.2.(2).
22. The site forms part of a wider swathe of undulating countryside. Despite some wider open fields, the hedges and clumps of trees create a more intimate and smaller scale landscape around the site. Other farms and their buildings on the other side of the road and Crimsote Hill House to the east are visible. From what I could see, their buildings are fairly traditional and sit comfortably in the wider rural setting as part of a wider group of buildings.
23. Due to the topography, the land gradually rises up from the road. Consequently, the existing concrete apron in front of the building and the building itself would be sited on the brow of the hill. The building would also sit on its own, divorced from other buildings and structures. Due to the building's substantial size, height, bulk and massing, together with its isolated siting on high land, it would be unduly dominant in the wider countryside setting. The nearby trees to the south west on the other side of the field boundary would not provide any meaningful screening for, or backdrop to, such a large building.
24. The proposed gravel track leading to the building would be laid at ground level. Nonetheless it would be an obvious straight line of hardstanding and together with the wider area of hardstanding in front of the building would make an incongruous and obvious scar on the hillside. Whilst the gravel could become overgrown and the appearance of the track soften over time, it would nonetheless remain an obvious alignment leading to a large, unduly dominant building.
25. The siting of the proposed building and the siting and construction of the proposed track would therefore harm the character and appearance of the rural area. Consequently, prior approval is refused.

Other Matters

26. Extending the existing building or siting the proposed building adjacent to the existing one would involve excavating away some of the sloping grazing ground

to the south to create a large enough area of level ground, or making up land that drops away to the other side. This would involve additional engineering works and proper disposal of the excavated material and there would likely be associated costs of creating the larger area. I understand that during determination of the application, the track was shortened and the building relocated to its current proposed position. However, the justification for the siting of the proposed development or comparison with other sites is not a matter I need concern myself with as I must determine the siting of the proposed building and track on the location before me and on its own merits.

27. I appreciate that the proposed building might assist with the continued running and even expansion of the business. Whilst no documentation has been provided to demonstrate the nature of the business and expansion plans, commercial viability is not a prerequisite of Part 6 permitted development rights.
28. It is a matter for the Council whether they chose to seek advice from their rural consultant.

Conclusion

29. For the reasons given above the appeal is dismissed.

K Stephens
INSPECTOR