



Appeal Decision

Site visit made on 30 August 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th September 2022

Appeal Ref: APP/C1625/W/22/3297574

Canons Court, Streamleaze Farm, Howley Cottage to New Road, Bradley Green, Wotton-under-Edge, Gloucestershire GL12 7PN

- 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) Order 2015
 - The appeal is made by Mr P Hanney against the decision of Stroud District Council.
 - The application Ref S22/0528/AFPA, dated 14 February 2022, was refused by notice dated 5 April 2022.
 - The development proposed is erection of fodder store.
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Decision

1. The appeal is dismissed.

Main Issues

2. Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) permits the erection of a building on agricultural land comprising a unit of 5 hectares or more, but only where it is reasonably necessary for the purposes of agriculture, within that agricultural unit. Whether the proposal complies with these requirements and so benefits from the permitted development right is a matter of dispute.
3. In addition, Paragraph A2(2) of Class A also requires (amongst other things) the developer to apply to the Council for a determination as to whether its prior approval will be required as to the siting, design and external appearance of the building. The Council has required that prior approval is obtained¹ and refused to give that approval because of its proposed siting.
4. The main issues are:
 - whether the proposal would involve the provision of a building reasonably necessary for the purposes of agriculture within an agricultural unit, to comply with the description of permitted development at Schedule 2, Part 6, Class A of the GPDO, and
 - The effect of the siting of the proposal on biodiversity and the character and appearance of the area.

¹ LPA reference S.22/0528/AFPA

Reasons

Whether within an agricultural unit and reasonably necessary

5. The site consists of grassland interspersed with trees, hillocks and mounds suggestive of its former use as a golf driving range. I understand that the site is shown as a golf course on the Council's mapping system, and I am told that ariel photographs do not indicate any agricultural activity, although I have not been provided with evidence to support this.
6. However, on my visit, I saw that sheep were grazing within the site, consistent with the flock of ewes and lambs identified in the submission. Furthermore, I have been provided with evidence to show that applications have been made for Basic Farm Payments for the 2020 and 2021 Scheme Years, and that the site is subject to a Countryside Stewardship Agreement for a five-year period, suggesting that the appellant is investing in the holding for future agricultural use. Therefore, on the balance of probabilities, I am satisfied that the site is within an agricultural unit of 5 hectares or more and that the siting of the proposal has a clear relationship with an existing agricultural holding.
7. As to the need for the building, the evidence before me is that it would primarily be used for storing fodder, some of which is currently prone to damage. I have no reason to doubt that the proposal would be more convenient operationally. Similarly, there is little before me to dispute that the proposal would allow an existing building to be used for housing sheep during lambing, helping their welfare.
8. The test of the GPDO is that the building is 'reasonably necessary' rather than 'essential', as suggested by the Council. As such, I consider that sufficient justification has been provided to demonstrate that the proposal would involve the provision of a building reasonably necessary for the purposes of agriculture within an agricultural unit of 5 hectares or more, to comply with the description of permitted development at Schedule 2, Part 6, Class A of the GPDO.

Siting

9. The building would be sited on rough grassland. The parties dispute the ecological significance of the land. I am told that the site has historically been used as landfill and is now regularly grazed to low sward levels and is mechanically farmed for hay. Nevertheless, as rough grassland, there is a reasonable likelihood that the land provides a habitat for protected species, such as breeding birds or reptiles.
10. No substantive evidence, such as an ecological survey or assessment, has been provided to demonstrate the presence or otherwise of protected species on the site, or recommendations to mitigate against the effect of the proposal on them. This did not form a reason for the Council's initial requirement for prior approval to be obtained but I must have regard to the conservation of biodiversity.
11. The proposal could result in the loss or degradation of a habitat and so, without evidence to the contrary, I conclude that the proposal would have a potentially harmful effect on biodiversity. The results of an ecological survey may dictate the acceptability of the siting of the proposal, and this must be considered

before prior approval is granted, so it cannot be dealt with by a planning condition.

12. In terms of its visual effects, the building would be located at the edge of a field, close to the boundaries of the site which have mature trees and hedgerows. The proposal would be located away from existing buildings at the farm, but it would be in a discrete location close to a corner of the site. As such, its position would not result in harmful encroachment into the open countryside.
13. There is an existing field access from Stumpwell Lane nearby and the building may well be visible from this access. However, such views would be fleeting and largely screened by the existing boundary foliage. Other agricultural barns and stables are positioned nearby and are more visible from public viewpoints. For these reasons, the position and scale of the building would not appear harmful or out of character with the area. Nevertheless, the effect of the siting of the proposal on biodiversity would be potentially harmful.

Other Matters

14. I have taken into account the comments from North Nibley Parish Council, including in respect of the materials used, and the support of Wotton-under-Edge Town Council, but these do not alter my conclusions on the main issues.

Conclusion

15. For the reasons given above and taking into account all other matters raised, the appeal is dismissed.

O Marigold

INSPECTOR