



Appeal Decision

Site visit made on 25 November 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th December 2022

Appeal Ref: APP/B3438/W/22/3296498

Elderberry Barn, Benty Grange Lane, Waterfall, Staffordshire ST13 7PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr M Bradley against the decision of Staffordshire Moorlands District Council.
 - The application Ref DET/2022/0006, dated 23 February 2022, was refused by notice dated 24 March 2022.
 - The development proposed is the erection of an agricultural building for storage of machinery, implements and fodder.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Part 6, Class A(a) of the GPDO permits the carrying out on agricultural land comprised in an agricultural unit of 5 hectares (ha) or more in area of works for the erection, extension or alteration of a building which is reasonably necessary for the purposes of agriculture within that unit. Paragraph A.2.(2)(i) states that for development permitted by Class A the developer must, before beginning the development, apply to the local planning authority for determination as to whether its prior approval will be required as to the siting, design and external appearance of the building. Therefore, there are two stages to the process. The question of whether the proposal is permitted development needs to be dealt with before the question of the prior approval matters is addressed.

Main Issues

3. The Council determined that the proposal did not amount to permitted development for two main reasons. Firstly, that the evidence submitted was insufficient to determine whether the proposal would be on agricultural land within an agricultural unit of 5 ha or more, and whether it would be 'reasonably necessary' for the purposes of agriculture within that unit. Secondly, that the proposal failed to accord with Condition A.1.(b) in terms of development having been undertaken under Class Q within the previous ten years. No comment is made by the Council in respect of the prior approval matters of siting, design and external appearance.
4. The first main issue, therefore, is whether the proposal would amount to permitted development under Part 6, Class A. If so, the second main issue is the effect of the proposal on the appearance of the surrounding area, having regard to its siting, design and external appearance.

Reasons

5. The tests to be considered under Part 6, Class A are whether the land is in agricultural use, whether that land forms part of an agricultural unit and is of sufficient size, and whether the proposed building is 'reasonably necessary for the purposes of agriculture within that unit.' Paragraph D.1.(1) of Schedule 2, Part 6 defines "agricultural land" for the purposes of Class A as land *"in use for agriculture and which is so used for the purposes of a trade or business..."*. An "agricultural unit" is so defined as *"agricultural land which is occupied as a unit for the purposes of agriculture..."*
6. The land upon which the building would be located measures some 2.4 ha, but the appellant indicates that it forms part of a wider holding made up of two other parcels of land of 9 and 5 acres (approximately 3.64 and 2.02 ha respectively¹) which would cumulatively exceed the 5 hectare requirement. The Council points to the location of these other land parcels being roughly 2km and 15km from the appeal site, and to limited evidence being provided as to the use of this land for agricultural purposes.
7. The evidence before me in respect of these other parcels of land is negligible. Only rough locational details are provided, with no plans or other particulars to verify the size or nature of the land. Moreover, the evidence in respect of agricultural activity taking place, namely the production of an annual cut of grass for fodder, only refers to the 2.4 ha surrounding the appeal site, with the estimated storage requirements of the agricultural building based on the yield from only this land. Whilst it is quite possible that a single agricultural holding is made up of separate plots of land, the lack of detail as to the location and nature of the other land indicated to form part of the holding casts doubt on whether the proposal relates to an agricultural unit of 5 ha or more.
8. The appellant sets out that the field at the appeal site is used to produce fodder which is presently wrapped in plastic and stored in the open, but which the appellant wishes to store internally. However, I saw no evidence of any bales being stored on site at the time of my visit, nor any other substantive evidence of agricultural activity. The appellant also lists various vehicles, machinery and equipment for which a secure storage area is needed, but of these, I only noted the telehandler on the site at the time of my visit.
9. The land is also stated to be used for occasional sheep grazing. Somewhat strangely, the northern extent of the appellant's land ownership, as denoted by the blue line on the location plan, appears to include a small section of a much larger field to the north which is not defined by any physical boundary. I saw sheep grazing in the wider field beyond the area enclosed by the blue line, but no sign of any livestock within the area under the appellant's control.
10. I accept that the production of fodder and sheep grazing are activities that could reasonably be said to comprise an agricultural use. However, I have not been presented with any substantive details as to the extent of these activities beyond the 2.4 ha of land at the appeal site. Nor do I have any firm details that such activity has already taken place prior to the application for prior approval being made, or other details to indicate that the land is being used in connection with an agricultural business. I accept that the land around the appeal site is 'agricultural land' in the absence of evidence to the contrary. The

¹ 1 hectare = 2.47 acres (approximately)

size of the proposed building also appears reasonable based on the storage requirements set out. However, notwithstanding this, it has not been demonstrated, on the balance of the evidence before me, that the proposal relates to an agricultural unit of 5 ha or more or that the land is used for the purposes of a trade or business.

11. The Council acknowledges that the land formed part of an 'established agricultural unit' on or before 20 March 2013, which I understand was established as part of a 2015 application for prior approval (Ref DET/2015/0034) to convert an existing barn on the site to a dwellinghouse under the provisions of Schedule 2, Part 3, Class Q of the GPDO. The evidence indicates that, at that time, the land was under separate ownership and part of a different holding. However, there is no equivalent qualifying date under Part 6, Class A, where the assessment of agricultural use is based on the current situation. Therefore, the fact that there was an 'established agricultural unit' in 2013 has limited relevance to the assessment of the present use of the land.
12. The Council adds that the proposal fails condition A.1.(b) as the change of use of the barn to a dwellinghouse was development under Class Q undertaken within the previous 10 years. However, the appellant points out that conditions attached to the prior approval granted in 2015 were never discharged, and development was not completed by the stipulated three year time limit. Rather, following acquisition of the land in 2017, the appellant made a planning application for conversion of the barn to a dwelling which was granted. It is this permission (Ref SMD/2017/0440) that the appellant states was implemented.
13. Contrary to the Council, I find that the word 'conversion' in the description of development on the 2017 permission implies a change of use of the building to residential. It is also clear from the officer's report that consideration of the principle of development included the prospective residential use of the barn. On site, the interior layout of the dwelling appeared to be consistent with the layout approved under the 2017 permission. On the evidence I have, I find that the planning permission is the more likely to have been implemented. I cannot agree with the Council that this permission nevertheless falls 'under' Class Q, for the purposes of condition A.1.(b) as, in simple terms, it was development permitted by a planning permission and not through the provisions of the GPDO. Therefore, I find no conflict with condition A.1.(b).
14. However, this does not alter my earlier finding that the proposal would not relate to agricultural land within an agricultural unit of 5 ha or more. It follows, therefore, that the proposal does not fall within the scope of permitted development outlined in Schedule 2, Part 6, Class A of the GPDO.
15. Having reached this conclusion, it is not necessary for me to consider whether to grant prior approval for the siting, design, and external appearance of the proposal, as this would have no bearing on the outcome of the appeal.

Conclusion

16. For the reasons set out, the appeal should be dismissed.

K. Savage

INSPECTOR