



Appeal Decision

Site visit made on 28 February 2023

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 March 2023

Appeal Ref: APP/J1915/W/22/3302444

Muspatts Farm, Churchfield Road, Tewin, Hertfordshire AL6 0JN

- 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) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Williams Bros Partnership against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/0212/AGPN, dated 28 January 2022, was refused by notice dated 24 February 2022.
 - The development proposed is described on the application form as 'Erection of a General Purpose Agricultural Building at Muspatts Farm'.
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Decision

1. The appeal is allowed and prior 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 the Erection of a General Purpose Agricultural Building at Muspatts Farm, Churchfield Road, Tewin, Hertfordshire AL6 0JN in accordance with the terms of the application Ref 3/22/0212/AGPN, dated 28 January 2022, and the details submitted with it, including drawings number 201 and 202, and subject to the standard conditions set out in sub-paragraphs A.2.(2)(vi), A.2.(5) and A.2.(7) of the GPDO.

Main Issues

2. The main issues in this appeal are:
 - whether the proposed development is permitted development (PD) under Schedule 2, Part 6, Class A of the GPDO, and
 - if the proposal is PD under the provisions of the GPDO, whether prior approval should be granted, having regard to the siting, design and external appearance of the building.

Reasons

Permitted development

3. Part 6 of Schedule 2, Class A of the GPDO provides that the carrying out of works for the erection, extension or alteration of a building on agricultural land comprised in an agricultural unit of 5 hectares or more in area, which are reasonably necessary for the purposes of agriculture within that unit, are permitted development subject to the conditions, limitations and restrictions set out within paragraph A.1.(a) to (k) inclusive.

4. Paragraph D.1. defines an 'agricultural unit' as agricultural land which is occupied as a unit for the purposes of agriculture but including specified dwellings.
5. The appellants indicate that the appeal site was purchased by them in December 2021, and by the time they submitted their application for prior approval had been farming the land for approximately 2 months. Prior to this the land was being used for equine purposes in association with stables located to the south east of the appeal site. Notwithstanding this situation the Council assert that at the time they visited the land was still set up for equine use, and consequently did not form part of the agricultural use.
6. The appellants do not dispute that the land may have been used for grazing of horses, in association with stables located to the south east of the site in the past. However, in evidence submitted in support of their appeal, they refer to appeal decisions issued in June 2019¹ which indicates that there were no obvious signs of equestrian activity taking place at the stables at that time. Furthermore, it appeared to the inspector that there had been no horses on the land for some time.
7. On my site visit I saw that the land where the stables and associated facilities were originally located had been redeveloped for housing. Furthermore, the appeal site, had been subdivided using stock proof wire fencing. Sheep were grazing within the western part of the field with drinking and feeding troughs provided. A small amount of agricultural equipment was present across the northern part of the appeal site. I saw no evidence that the appeal site had been used for horse grazing in the recent past.
8. I have taken into account the claim for subsidies made by the appellants under the Basic Payment Scheme which indicates that the appeal site was resurveyed by the Rural Payments Agency for inclusion within the appellants 2022 claim. The land was identified as being used as permanent grassland. This evidence weighs in favour of the land being part of the agricultural unit
9. Accordingly, in the absence of substantive evidence to the contrary, I find that the appeal site has been used for agricultural purposes for a period in excess of 12 months, and now forms part of a larger agricultural unit.
10. There being no other matters of dispute between the main parties I conclude, on this main issue, that the proposed development would be 'permitted development' under Part 6 of Schedule 2, Class A of the GPDO.

Prior approval

11. The GPDO states that before beginning the development the developer must apply to the local planning authority for prior approval as to the matters within the grounds of assessment which are listed within A.2.(2)(d)(i) to (vi) inclusive. Paragraph 2(d)(i) of the GDPO relates to the siting, design and external appearance of the building.
12. The proposed building would be located close to the existing farmhouse and its associated agricultural buildings. It would be sited in a shallow valley and, as a result of its restricted height, the visual impact of the building would be limited when viewed from the surrounding area. Existing hedgerows and trees would

¹ APP/J1915/W/19/3221608 and APP/J1915/W/19/3221609

further mitigate its impact when viewed from Churchfield Road, Archers Green Lane and School Lane.

13. The design of the proposed building, which incorporates olive green profile steel cladding to the external walls and a grey roof, is similar to other farm buildings in the locality, and consequently it would not appear out of keeping within its rural context.
14. In light of the above, I find that the character and appearance of the site and the surrounding area would not be harmed by the proposed development.

Conditions

15. The GDPO states that prior approval may be granted unconditionally or subject to conditions that reasonably relate to the subject matter of the prior approval.
16. Paragraph A.2.(2)(vi) of the GPDO requires the development to be carried out within a period of 5 years from the date on which approval is given. Notwithstanding the Council's draft condition requesting that the development be commenced with a period of 5 years from the 22nd July 2022, I have used the standard condition as stated in the GPDO.
17. The removal of the buildings and the restoration of the land, in the event of the use for agricultural purposes ceasing, or without grant of planning permission for an alternative use, is a requirement of paragraph A.2.(5) of the GPDO.
18. The developer is required to notify the local planning authority of the completion of the development in order to comply with paragraph A.2(2)(7) of the GPDO.

Other matter

19. Tewin Parish Council has a concern that there is a need for an archaeological survey in the vicinity of the site of Tewin House. However, I have no evidence before me to indicate where Tewin House lies relative to the appeal site, or the extent of any archaeology that might be present at that location. Consequently, I give neutral weight to this matter.

Conclusion

20. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed, and prior approval granted subject to conditions.

John Gunn

INSPECTOR