
Appeal Decision

Site visit made on 28 February 2023

by Emma Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 April 2023

Appeal Ref: APP/B1930/W/22/3302431

Harper Lodge Farm, Harper Lane, Shenley, Radlett WD7 7HU

- 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) Order 2015.
 - The appeal is made by Mr D Ivory against the decision of St Albans City Council.
 - The application Ref 5/2021/3494, dated 13 December 2021, was refused by notice dated 11 January 2022.
 - The development proposed is described as 'An agricultural building for the use of storing hay and straw'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether it has been demonstrated that the proposal would be permitted development under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

Reasons

3. Under Schedule 2, Part 6, Class A of the GPDO, the proposed development must be undertaken on agricultural land comprised in an agricultural unit and be reasonably necessary for the purposes of agriculture within that unit. The GPDO sets out that an established agricultural unit means agricultural land which is occupied as a unit for the purposes of agriculture.
4. There is no requirement in the GPDO that the site is 'solely' in agricultural use for the purposes of Part 6. However, given that Part 6, Class A specifically refers to agricultural development, where there is more than one activity taking place within the unit, including a non-farming use for example, consideration is required as to whether the activities could be regarded as ordinarily and reasonably incidental to agriculture, based on fact and degree, and whether the main use of the holding would remain primarily agricultural, in order that permitted development rights under Part 6 would apply.
5. The appeal site forms part of a wider unit which includes grassland and a small area of woodland. The land is used for both equestrian and agricultural purposes. The proposed agricultural building would be used for the storage of hay and straw produced on the unit.

6. I acknowledge that the site is registered as an agricultural business and is in receipt of agricultural support payments. The appeal submissions indicate that it is a prerequisite of the payment scheme that the land is used primarily for an agricultural activity. However, I am not aware of the relevant assessment in that regard, the extent of the land that it relates to, or evidence presented in that case.
7. Furthermore, at the time of my site visit there were livestock, specifically sheep, grazing on part of the site, although I acknowledge that this is a snapshot in time. I also note that the land has previously been used for equestrian breeding, which would fall within the definition of agriculture, and it is intended that this will take place in the future. However, given that the unit is not currently used for these purposes, it has no bearing on my decision.
8. Notwithstanding the above considerations, these factors alone would not demonstrate in a clear and unambiguous manner that the appeal site is agricultural land comprised within an agricultural unit. Despite the absence of any form of physical subdivision of the land into paddocks with sectioning off or fencing and stabling, a significant equestrian use of the land is nevertheless evident, including the grazing of a number of horses on a significant proportion of the land. Whilst the use of land for grazing as an agricultural use may include the use of land for grazing horses, this is not the case where the keeping of horses involves activities other than putting them out to graze. Given the lack of substantive evidence regarding the extent of any non-agricultural and agricultural uses I am not persuaded that the non-agricultural uses are incidental in nature to the agricultural use of the unit. The primary use of the site is therefore uncertain.
9. For the foregoing reasons, it has not been adequately demonstrated that the appeal site would comprise agricultural land on an agricultural unit. I therefore conclude that the proposal would not constitute permitted development under Schedule 2, Part 6, Class A of the GPDO.
10. Given my findings on the main issue I have no reason to consider further the siting, design and external appearance of the building.

Other Matters

11. My attention is drawn to an extant prior approval for the construction of an identical agricultural building nearby on the holding (Ref. 22/0344/PD280). The relevant authority, in this case the adjoining planning authority, determined that the building was reasonably necessary for the purposes of agriculture within the unit, and on that basis, would constitute permitted development under Part 6, Class A of the GPDO. However, I must assess this appeal on the basis on the information before me, which I have determined is not conclusive on the matter.
12. I note the appellants suggestion that the appeal site would be a more preferable location for the building than the extant approval, having regard to the existing built form and the wider holding. The proposal would also enable the appellant to remove the existing lorry bodies at the site which are used for the temporary storage of hay and straw. Whilst these may be benefits, they are not determinative factors as to whether or not the proposal would constitute permitted development.

Conclusion

13. For the reasons set out above, the appeal is dismissed.

Emma Worley

INSPECTOR