



Appeal Decision

Site visit made on 22 March 2023

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2023

Appeal Ref: APP/A0665/W/22/3309588

Field Off Shay Lane, Shay Lane, Kelsall

- 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) Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Adam Thwaites against the decision of Cheshire West and Chester Council.
 - The application Ref 22/02787/AGR, dated 22 July 2022, was refused by notice dated 14 October 2022.
 - The development proposed is a steel frame shed.
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Decision

1. The appeal is allowed and prior approval is granted for the provisions of Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for a steel frame shed at Field Off Shay Lane, Shay Lane, Kelsall in accordance with the details submitted pursuant to Schedule 2, Part 6, Class A, paragraph A.2.(2) of the GPDO via application Ref 22/02787/AGR, dated 22 July 2022.

Preliminary Matters

2. Schedule 2, Part 6, Class A of the Town and Country Planning General Permitted Development (England) Order 2015 (as amended) (GPDO) permits the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of works for the erection, extension or alteration of a building which are 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. The Council determined that prior approval for the siting, design and appearance of the proposed building was required and was refused.

Main Issues

3. The main issues are:
 - whether or not the proposal would be permitted development under Schedule 2, Part 6, Class A of the GPDO having particular regard to whether the building would be reasonably necessary for the purposes of agriculture; and

- if so, whether the proposal would satisfy the detailed prior approval matters including the effect of the siting, design and external appearance upon the character and appearance of the area.

Reasons

Whether Permitted Development

4. Permission is sought for the erection of a steel framed shed. Under Schedule 2, Part 6, Class A of the GPDO, the proposal must be reasonably necessary for the purposes of agriculture. The appellant states that the proposed building would be used for the purpose of storing hay, and the existing shed on site would be used for the storage of machinery. They also state that they have been growing hay at the site since 2020 and continue to expand their production capacity. Therefore, and given the appellant's plans to increase yields, I see no reason to doubt that the proposal would be reasonably necessary for the purposes of agriculture within this agricultural unit.
5. To comply with paragraph A.1(d) of the GPDO, it must be demonstrated that the proposal is designed for agricultural purposes. The building's design would be typical of modern agricultural buildings, consisting of a steel frame with concrete blocks to the lower walls and timber cladding above, and with a profiled roof. Thus, the proposal would comply with A.1(d) of the GPDO. Furthermore, the proposed building would not be overly large in the context of the allowable limits of the GPDO.
6. Therefore, I conclude that the proposal would be reasonably necessary for the purposes of agriculture within that unit under paragraph A of Schedule 2, Part 6, Class A of the GPDO.

Character and Appearance

7. The appeal site comprises a parcel of agricultural land with woodland fringing on or adjacent to its boundaries. A residential dwelling known as Knightswood is located to the east of the site. The surrounding area is countryside.
8. The proposal would be sited away from the cluster of existing buildings on site. However, the building would be of modest scale relative to the expanse of the field it would be located within. It would be positioned towards the edge of the field near to established woodland where the building would be screened from views by the woodland and would benefit from a backdrop of tall trees. The proposal would also be set back a significant distance from the road and would be sited in a dip on a lower part of the site. Therefore, it would not be visible from the highway or adjacent residential properties. Thus, the proposal would not appear unduly prominent in views from surrounding land, including nearby public footpaths.
9. As described above, the proposed building's design and materials would be appropriate for an agricultural building and therefore would not appear out of keeping in its rural location.
10. The Council refers to a previous appeal decision regarding an agricultural building situated to the east of the dwelling, which was dismissed due to the harm to character and appearance. From the limited information before me, that building was in a more elevated position than the one before me now, making it prominent in the landscape which is different to the current proposal.

11. Consequently, the proposal's siting, design and external appearance would not unacceptably harm the character and appearance of the area.

Other Matters

12. I note that the site is within the Green Belt, but this is not a matter for consideration under Schedule 2, Part 6, Class A of the GPDO.
13. Concern has been raised regarding access to the site, including the land being waterlogged and increased comings and goings from large vehicles along Shay Lane. However, the proposal would be accessed via an existing agricultural track off Shay Lane. In addition, planning permission has previously been granted for a stone track to be extended to the field in which the proposed building would be located (ref:21/01229/AGR). I also note that the Council's Highway Officer did not raise any highway safety issues. Therefore, my findings in respect of the main issues have not been altered.
14. A number of other issues have been raised by third parties, including enforcement issues. Nevertheless, as the appeal relates to prior approval, the matters for consideration are restricted to those set out in the relevant paragraphs of the GPDO. Therefore, these other issues raised fall outside the matters I can consider.
15. I acknowledge the concerns about future development at the site. However, it is open to the appellant to submit future applications to the Council to seek approval for future developments if they so wish.

Conditions

16. The GPDO does not provide any specific authority for imposing additional conditions beyond the deemed conditions for agricultural development on units of 5 hectares or more in paragraphs A.2(2)(v) and (vi). These specify that the development must be carried out in accordance with the approved details submitted with the application and within 5 years of the date of this approval. As such, there is no reason for me to impose any additional conditions.

Conclusion

17. For the reasons given, I conclude that the proposal would be permitted development and would be acceptable with respect to the character and appearance of the area resulting from the siting, design and external appearance of the proposed building. The appeal should therefore be allowed, and prior approval is granted.

Helen Smith

INSPECTOR