



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/R0660/W/22/3309621

Green Butts Farm, Long Lane, Spurstow, Cheshire East CW6 9TB

- 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 David Corry (Direct 2 Mortgages) against the decision of Cheshire East Council.
 - The application Ref 22/1828N, dated 3 May 2022, was refused by notice dated 30 May 2022.
 - The development proposed is agricultural storage units.
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Decision

1. The appeal is dismissed.

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. As such, 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 main issues are:
 - whether the proposed development would be permitted development under Schedule 2, Part 6, Class A of the GPDO; and
 - if so, whether the proposed development 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. The appeal site comprises a parcel of agricultural land at Green Butts Farm, located off Long Lane. Green Butts Farm has an agricultural holding number.
5. Permission is sought for the erection of two agricultural storage units. The buildings would be used for the purpose of storing hay, straw, and agricultural machinery. It would also be used for the temporary shelter of lambs during the time of giving birth and shelter of livestock during winter and from extreme weather conditions.
6. The proposed buildings would be within 400m of the curtilage of protected buildings. Paragraph D.1 (1) of Schedule 2, Part 6 of the GPDO defines protected buildings as “any permanent building which is normally occupied by people or would be occupied, if it were in use for purposes for which it is designed, but does not include a) a building within the agricultural unit; or b) a dwelling or other building on another agricultural unit which is used for or in connection with agriculture.” Several of the protected buildings within 400m of the appeal site are located outside the agricultural holding.
7. In accordance with Paragraph A.1(i) of the GPDO, a building which accommodates livestock, and which is within 400m of the curtilage of a protected building is not permitted development.
8. Paragraph A.2(1)(a) imposes a condition on the use of a development that has already been carried out. The condition prevents use as accommodation for livestock but recognises that there may be circumstances where such use of existing development would be legitimate and so it provides for the exception in paragraph D.1(3). This exception recognises that there may be circumstances (such as giving birth or to provide shelter against extreme weather conditions) where an existing building within 400m of the curtilage of a protected building can be used as temporary livestock accommodation.
9. It is Paragraph D.1(3) on which the appellant relies for being able to use the proposed buildings to accommodate livestock in the manner proposed. Nevertheless, it is the appellant’s intention to shelter livestock in at least one of the buildings during the winter months, and therefore not just during extreme weather conditions or when livestock are giving birth. As such, this would not meet the exception set out in paragraph D.1(3).
10. I note the letter from Sandstone Vet Group indicating issues specific to rearing lambs and the need for an on-site indoor space. However, the evidence before me also indicates that the buildings would be used to accommodate livestock on a more than temporary basis. Thus, it would not comply with the limitations in paragraph D.1(3).
11. Furthermore, paragraph D.1(3) cannot be read into paragraph A.1(i), which is not subject to the same exception as condition A.2(1)(a). Moreover, the condition set out in paragraph A.2(1)(a) applies to existing development. Thus, this paragraph does not apply to the appeal buildings as they have not yet been built.
12. I acknowledge that an existing barn at Green Butts Farm is currently being used for the storage of a land rover, small tractor, car, for the storage of hay

and straw, and also for the housing of donkeys. Although this building is positioned within 400m of protected buildings, there is no substantial evidence before me to demonstrate why this existing building could not be used in emergency situations for the temporary housing of livestock in extreme weather conditions and during the lambing season when livestock are giving birth.

13. Therefore, as the proposed buildings would accommodate livestock within 400m of the curtilage of a protected building it would be contrary to the provisions of Paragraph A.1(i) of the GPDO. As such, it would not be permitted development under Schedule 2, Part 6, Class A of the GPDO.
14. Although the appellant has provided some information as to the proposed uses of the buildings, I find that insufficient information has been submitted to specify the quantities of hay and straw or the amount and size of the intended machinery and equipment to be stored within the buildings. Nevertheless, the proposed buildings would not be overly large in the context of the allowable limits of the GPDO.
15. Even if I were to accept the contention that the development would be reasonably necessary for the purposes of agriculture, it would not change the outcome of the appeal. As the development is not permitted development for the reasons I have set out above, it is also not necessary for me to consider whether to grant prior approval for the siting, design, and external appearance of the proposal.

Other Matters

16. I acknowledge the personal circumstances of the appellant and the increased pressure to house the sheep that they have recently purchased in an indoor space. However, it is open to the appellant to submit a fresh application to the Council to seek approval for a revised development.
17. The appellant has submitted a Bat Survey Report (dated 2017). This report indicates that bats were present in some of the existing buildings at Green Butts Farm during the time the survey was undertaken. However, this survey was undertaken a long time ago, and since that time circumstances could have changed for protected species. An updated Bat Survey has not been provided. It does not therefore alter my findings in respect of the main issue.
18. 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.
19. I also note that the location of the proposal is in an area nominated by Natural England to be part of an Area of Outstanding Natural Beauty (AONB). Nevertheless, I have no evidence before me to show that the area has been confirmed as an AONB. As such, it is not a matter for consideration under Schedule 2, Part 6, Class A of the GPDO.
20. The proposed buildings would provide economic and social benefits. The construction phase would provide employment for local trade workers and local supply companies would be utilised. Ongoing maintenance services and supplies would also be required, which would make an ongoing contribution to the local economy. It would also create local labour and bring employment opportunities into the local area. Nonetheless, these modest benefits do not alter my decision.

21. A number of other issues have been raised by third parties. However, 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.

Conclusion

22. For the reasons given above, and having regard to all the matters raised, the appeal should be dismissed.

Helen Smith

INSPECTOR