



Appeal Decision

Site visit made on 4 April 2023

by Ann Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2023

Appeal Ref: APP/R0660/W/22/3313366

Two Tons Barn Kynsal Lodge, Woodhouse Lane, Buerton, Cheshire East CW3 0DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order).
 - The appeal is made by Mr Tim Cottrell against the decision of Cheshire East Council.
 - The application Ref 22/4310N, dated 30 October 2022, was refused by notice dated 29 November 2022.
 - The development proposed is a steel framed portal building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision notice cites Schedule 1 of the Order. However, the application was made under Schedule 2 and the Council's officer report indicates the proposal was considered as an application for prior approval under Schedule 2 (Part 6, Class A). I have therefore proceeded on that basis.
3. I have taken the description of development in the banner heading above from the application form. The Council's decision notice describes the proposed development as a 'proposed:steel fram' which is unclear. Furthermore, no confirmation that a change was agreed has been provided.

Background and Main Issues

4. Part 6, Class A allows for the erection of a building on agricultural land comprised in an agricultural unit of 5 hectares or more which is reasonably necessary for the purposes of agriculture within that unit. However, to be permitted under Part 6, Class A, the development must accord with limitations and conditions.
5. The Council considers that the development does not fall within Part 6, Class A because in its view the development would not be sited on an agricultural unit of 5 hectares or more in size and it has not been shown that the building is essential for the needs of an agricultural operation.
6. In the light of this the first main issue is whether the development could be permitted by Part 6, Class A. If I find that the development could be permitted development, then the second main issue is whether the development meets the restrictions and conditions of Part 6, Class A and including whether prior approval should be granted subject to any relevant conditions.

Reasons

Whether permitted development

7. As set out above, in order to benefit from permitted development rights for a new agricultural building under Part 6 Class A paragraph A.(a) it has to be carried out on agricultural land comprised in an agricultural unit exceeding 5 hectares in size; and be reasonably necessary for the purposes of agriculture within that unit.
8. The appellant's landholding extends to 8 hectares. While I have been provided with an agricultural holding number, I have no accompanying plan to indicate the location, number or size of the parcels of land that make up the holding. Although the Council do not dispute the size of the overall holding or its agricultural use, its contention is that it comprises several parcels of land which are detached from the appeal site by a significant distance and therefore cannot form part of the agricultural unit. However, it is not necessary for all parcels of land within the holding to be close to form one agricultural unit. Consequently, while the parcel of land upon which the proposed building would be sited is less than 5 hectares, I am satisfied that the overall agricultural unit exceeds 5 hectares and thus accords with the first part of Part 6 Class A paragraph A.(a).
9. The second part of Part 6 Class A.(a) set out above is that the building must be reasonably necessary for the purposes of agriculture in that unit.
10. The appellant has set out some broad reasons to justify the building, including a list of various items of agricultural machinery and vehicles intended to be stored within it. While the appellant claims that hay yielded on the land is used as feed for the sheep and also offered for sale to local residents, there is little substantive information to clarify the nature or operation of the unit such as the numbers of livestock or the hay yield.
11. I saw at my site visit that there were other buildings on both parcels of land within the 'red edge' along with tractors and trailers and other agricultural machinery. I am also aware, from the information provided, that the appellant offers a small hay bailing and grass topping service to local landowners, cumulatively amounting to a sizeable area of land.
12. However, I find that few details have been provided to assist in the assessment of the need for the proposed building to accommodate the various vehicles and machinery that would be necessary to service this agricultural unit. Therefore, balance of the evidence does not support the view that the proposed building would be reasonably necessary for the purposes of agriculture within this unit.
13. For the reason set out above, there is little to demonstrate that the definitional requirements applicable to Part 6 development have been met. I am therefore unable to conclude that the proposal is reasonably necessary for the purposes of agriculture within the agricultural unit. As such, the agricultural building could not be permitted development under Schedule 2, Part 6, Class A of the Order.

Whether the development meets the restrictions and conditions of Part 6, Class A, including prior approval

14. As the proposed development would not be permitted development it is not necessary or appropriate for me to consider whether the development meets the restrictions and conditions of Part 6, Class A and including whether prior approval should be granted subject to any relevant conditions.

Conclusion

15. I conclude that the proposed development would fall outside the scope of that permitted under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and the appeal should be dismissed.

Ann Veevers

INSPECTOR