



Appeal Decision

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/M2840/X/22/3299025

Land at Yarwell Mill, Yarwell, Northamptonshire, PE8 6LH

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by NCPF Limited against the decision of North Northamptonshire Council.
 - The application ref NE/21/01184/LDP, dated 26 July 2021, was refused by notice dated 10 February 2022.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is the extraction of gravel from the land as permitted agricultural development under Schedule 2, Part 6, Class A.
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Decision

1. The appeal is dismissed.

Application for costs

2. This appeal is the subject of a costs application by the appellant which is the subject of a separate decision.

Main Issue

3. The main issue is whether the Council's decision not to grant the LDC application for the extraction of gravel was well-founded. The Council say that the appellant had not provided sufficient information to show that the works were reasonably required for the purposes of agriculture as required by Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 2015 ('the GPDO').
4. The appellant argues that as the appeal site is accepted to be part of an agricultural unit, the fact that the gravel is going to be used to repair existing tracks and hardstanding is sufficient to show that the development is reasonably required for agricultural purposes. They state that they require the carefully worded certificate to allow them to undertake the necessary works as and when needed saying that:

"The Appellant is not in a position to explicitly identify all specific repairs and resurfacing that are intended to be covered by this certificate as some may not be necessary for some years".

Reasons

5. I accept that Part 6 Class A can permit gravel to be removed from one site and used on a physically separate site where it is part of the same agricultural unit, as long as all of the requirements in the Class are met, and this does not

appear to be in contention as I note that the Council agree that to be the case here.

6. However, it is not always the case that development undertaken on an agricultural unit will be necessary for the purposes of agriculture. If that were the case then there would be no need for that stipulation in the description of the permitted development.
7. Rather than seeking an LDC for specific proposed works the appellant is instead seeking a wider confirmation which simply asserts the permitted development rights in Class A, stating themselves that they cannot identify what all of these works may be at this time. Whilst there are some photographs included in the appellant's statement of case these are referred to as 'some of the tracks, gateways and hardstandings at Longbrook Farm' and the extent of these areas are not identified or located within the site by the use of a plan. Indeed it is not explicitly stated that the LDC sought relates to specific works to the tracks, gateways and hardstandings shown in the photographs. The appellant also refers to use in the future for a construction of a new agricultural building, albeit one which would be subject to a separate prior approval process and without any further detail.
8. Planning Practice Guidance advises that it is for the appellant to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved. The description of the proposal in this LDC appeal is simply not clear or precise enough to enable a proper assessment as to whether the permitted development rights in Class A would apply as it is unclear as to the extent, duration, precise location or purpose of the proposed works (e.g. the specific tracks or hardstanding on which the gravel is proposed to be used), and therefore whether they would be reasonably necessary for the purposes of agriculture. What the appellant is seeking is a wide assertion of the permitted development rights, and this is simply not the purpose of the LDC procedure which provides for the grant of a certificate regarding the lawfulness of the specific operations described in the application.
9. The appellant refers to the limitations of the permitted development within Class A which would remain on any future works i.e. that the works be reasonably required for the purposes of agriculture. However, granting such a certificate regarding Part 6 Class A without having sufficient information to determine whether it met that requirement would be virtually meaningless.
10. The fundamental elements of the permitted development as set out in Class A need to be satisfied in order for the certificate to be granted and the requirement of section 192 (2), that the LPA must be satisfied the use or operations described in the application would be lawful if begun at the time of the application, are simply not met. The appellant can make further LDC applications for specific operations in order to provide comfort if they so require.
11. The Council also considered and referred to Schedule 2, Part 6, Class C in its decision notice but as any permitted development right under Class C must also be reasonably necessary for agricultural purposes within the agricultural unit of which it forms part the same reasons as set out above in relation to Class A apply.

Conclusion

12. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the excavation of gravel was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Zoë Frank

INSPECTOR