



Appeal Decision

Site visit made on 4 July 2023

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2023

Appeal Ref: APP/J0405/W/22/3308973

Walnuts, 4 Aston Abbotts Road, Cublington, Buckinghamshire LU7 0LG

- 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) and Schedule 2, Part 6, Class A, Paragraph A.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Miss C Gee against the decision of Buckinghamshire Council.
 - The application Ref 22/00963/AGN, dated 16 March 2022, was refused by notice dated 14 April 2022.
 - The development proposed is erection of a new general purpose agricultural building for storage of implements and winter fodder.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for erection of a building which is reasonably necessary for the purposes of agriculture within that unit, subject to limitations and conditions.
3. Sub-paragraph 2 of paragraph A.2-Conditions requires, amongst other things, the developer to apply to the local planning authority for a determination as to whether the prior approval of the authority will be required.

Background and Main Issues

4. I consider that the main issue in this appeal is whether the proposed development would be granted planning permission by Article 3, Schedule 2, Part 6, Class A of the GPDO.

Reasons

5. To benefit from these permitted development rights the proposed development must be carried out on agricultural land. The Council question whether the appeal site is agricultural land. The agricultural unit is described as comprising of two separate parcels of land 12 miles apart. Lower Farm is described as being 152 acres in size (61.5 hectares) and the appeal site, called Walnuts, is over 1 hectare.
6. The proposed building is suggested to be reasonably necessary due to the distance between the two sites and the need to store feed and fodder to sustain grazing of young stock at the appeal site.

7. The appellant advises that horses and livestock have used the appeal site for grazing in the interests of maintaining pasture which is an agricultural activity and the application forms state that the appeal site has been in agricultural use for 50 years.
8. Photographs have been provided by the Council of horses at the site and they state that the land was in equestrian use. The description of a recent permission in principle decision¹ in part, sought the demolition of a building in equestrian use. From the evidence before me the blue lined area for that application site included the current appeal site, indicating a connection between the site and the equestrian use.
9. Evidence provided to support the agricultural use claim, includes a letter from the appellant's accountant confirming a legitimate farming business, but there is no information in the letter which ties this farming business to the appeal site, so I can only be sure that the appellant has a farm and not that the appeal site is used for agriculture. I have also been provided a copy of application forms and plans to claim Basic Payment Scheme subsidy on the appeal site. These list map reference numbers, but I am unable to match the reference numbers to any corresponding maps to be sure any relate to the appeal site. I also cannot be certain any such application was made, or that any payment was made to the appellant under the Scheme. Furthermore, the Council demonstrate that the agricultural definitions for claiming Basic Payment Scheme subsidy differ to the definition in the General Permitted Development Order. This combined with the lack of a Certificate of Lawfulness of Existing Use which might substantiate the lawful use, means I am unable to conclude from the evidence before me that the appeal site is in agricultural use.
10. Based on the information before me I cannot conclude that the appeal site is used for agriculture as part of a larger planning unit, so on this basis would not benefit from the permitted development in Schedule 2, Part 6, Class A of the GPDO. As the proposal would fail to constitute permitted development, there is no need to consider whether prior approval is required.

Other Matters

11. I note the Council also raised concern about the siting of the development, one of the prior approval matters. However, given my conclusion that the proposed development would not be permitted development, there is no need for me to consider whether or not any conditions or limitations in Part 6 Class A of the GPDO, such as the setting would prevent prior approval being given, as it would not alter the outcome of the appeal.
12. During the appeal the appellant has clarified that the building would also provide shelter to farm animals in adverse weather conditions and provides a copy of a high court judgement². The Council state this proposed use is an added reason the development does not meet the permitted development rights granted in part 6 class A of the GPDO. However, given my conclusion that the proposed development would not be permitted development, there is no need for me to consider this matter further.

¹ 19/04442/PIP

² R(Marshall) v East Dorset DC & Anr [2018] EWHC 226 (Admin)

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

S Crossen

INSPECTOR