



Appeal Decision

Site visit made on 31 August 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 September 2023

Appeal Ref: APP/Y3940/W/23/3317419

Field adjoining Bullock Horn Lane, Charlton, Malmesbury SN16 9DZ

- 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 of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Mr M Carrol of Andover Agriculture against the decision of Wiltshire Council.
 - The application Ref PL/2022/07661, dated 3 October 2022, was refused by notice dated 28 October 2022.
 - The development proposed is Agricultural barn for the storage of hay, equipment, tools, thresher and fertiliser.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr M Carrol of Andover Agriculture against Wiltshire Council. This application is the subject of a separate Decision.

Background and Main Issues

3. The application for determination as to whether prior approval was required for the construction of the proposed agricultural barn was made under Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO). Paragraph A.2(2) of the GPDO requires, amongst other things, that a determination be made as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building.
4. However, there is dispute between the parties as to whether the development benefits from the provisions of the GPDO. The reason for refusal states that the development does not meet the terms and conditions of Class A of Part 6. The Case Officer's Report clarifies that this is because it has not been demonstrated that the land is in use for agriculture and is being used as such for the purposes of a trade or business. It has also not been shown that the proposed building is reasonably necessary for the purposes of agriculture within the unit.
5. Therefore, having regard to the above, there is a two-step process, the first being to consider whether the proposed development would constitute permitted development under the terms of Paragraph A, (a) of Class A of Part 6 of the Order. Should I conclude that the proposals fall within the scope of this particular part of the Order, consideration must then be given to matters relating to the siting, design and external appearance of the building.

Reasons

Class A of Part 6

6. In order to benefit 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 for the building to be reasonably necessary for the purposes of agriculture within that unit. Paragraph D.1 of Part 6 of the GPDO defines 'agricultural land' for the purposes of Class A as 'land which, before development permitted by this Part is carried out, is land in use for agriculture and which is so used for the purposes of a trade or business, and excludes any dwellinghouse or garden'.
7. The appeal site forms part of an L-shaped landholding known as Andover's Farm. It consists of part field and part woodland, known as Andover's Gorse, which comprises the northern section of the appeal site. Andover's Farm is currently let out to a third party for the grazing of animals.
8. I note that it is the appellant's intention 'to grow and rotate crops (such as wheat) and produce hay in the future' and 'to expand the agricultural activities and increase the revenue derived from the land'. The GPDO does not require the associated level of activity to be of a certain scale in order for agricultural use to be demonstrated for the purposes of a trade or business. However, in this case no detailed evidence is before me regarding any agricultural trading activities or financial information in relation to such activities at the site.
9. Furthermore, no details as to the income derived from the timber management and wood production that the appellant states are carried out at Andover's Gorse have been provided. Whilst the scale of the woodland may not be 'indicative of the scale of woodland management operations in comparison to agricultural operations', based on the limited information, I cannot be satisfied that 'the forestry use is small, inconsequential, and clearly ancillary to the main agricultural use of the land', as alleged by the appellant.
10. I note the evidence of Land Liability Insurance that has been provided, as well as evidence of an insurance document for a tractor, which the appellant states is 'utilised to facilitate the agricultural use of the land'. I also acknowledge that the agricultural operation at Andover's Farm is registered with the Department for Environment, Food and Rural Affairs (DEFRA) and that a Single Business Identifier (SBI) has been provided. A County Parish Holding (CPH) number and confirmation that the appellant is registered on the rural payments service has also been submitted, albeit it is noted that these appear to have been set up relatively recently¹. However, these cannot, on their own, be indicative of an agricultural trade or business. Furthermore, I note that the appellant allegedly 'has farming experience in operating agricultural businesses and working in agricultural activities'. However, no evidence of these other agricultural businesses, for example account details, has been provided to verify this.
11. Therefore, on the balance of probabilities, I cannot be satisfied that the land is in use for agriculture, which is also used for the purposes of a trade or business. The burden of proof is on the appellant and in this case, I find there is uncertainty as to the level and nature of the agricultural 'trade or businesses' being carried out at the appeal site as a whole. Consequently, I am not

¹ Email from the Rural Payments Agency at DEFRA dated 3 August 2023.

satisfied that the proposed building is reasonably necessary for the purposes of agriculture within the appeal unit.

12. The appellant mentions security and the impracticality of transporting any machinery to the site whenever it may be needed as one of the reasons for the building. However, I can only give limited weight to these matters, given that I am not satisfied that the proposal would constitute permitted development.
13. Consequently, it has not been demonstrated that the land is in use for agriculture and is being used as such for the purposes of a trade or business. As such, for the reasons above, I conclude that the proposal would not constitute permitted development in respect of Paragraph A, (a) of Class A of Part 6 of the Order.
14. As considerations in relation to prior approval are a follow-on condition stage under paragraph A.2, they can therefore only apply if the development is otherwise permitted development. As the proposal would fail to constitute permitted development, there is no need to consider whether prior approval is required.

Conclusion

15. For the reasons given above, the appeal is dismissed.

Laura Cuthbert

INSPECTOR