



Appeal Decision

Site visit made on 6 September 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th September 2023

Appeal Ref: APP/C1950/W/23/3314648

The Rafters, Vineyards Road, Northaw, Potters Bar, Hertfordshire EN6 4PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr L Gjurra against the decision of Welwyn Hatfield Council.
 - The application Ref 6/2022/1990/PN6, dated 12 February 2022, was refused by notice dated 21 September 2022.
 - The development is described as 'the erection of 8.5m x 6m private road access of the nearby farmland'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have used the description of the development as given on the Council's decision notice. This corresponds with the details contained in the application form and I am satisfied that it accurately describes the development in question. I have also referred to the application date provided with the declaration on the application form. The Council's decision notice quoted a significantly later application date, but no amended or updated application form has been provided. I have considered the appeal on the basis of the evidence submitted with it.
3. I noted during my site visit that construction of an access in the position shown on the plans had commenced, but was incomplete. I have considered the development on the basis of the details on the submitted plans.

Main Issue

4. Schedule 2, Part 6, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) permits certain forms of agricultural development on units of less than 5 hectares, including the provision, rearrangement or replacement of a private way, where the development is reasonably necessary for the purposes of agriculture within the unit (Class B(d)).
5. Schedule 2, Part 6, Class B.1 of the GPDO sets out several limitations on the types of development permitted by Class B. The Council contends that in this case the development does not comply with the limitations contained in Class B.1 (a), (b) & (c), so it is not permitted development as defined in the GPDO.

6. The main issue is therefore whether the development in question is permitted development as defined in Schedule 2, Part 6, Class B of the GPDO.

Reasons

7. The appeal site is a roughly rectangular parcel of land with a narrow frontage onto Vineyards Road. At the time of my site visit, it was overgrown and did not appear to be in productive use. Although there are larger agricultural fields outside the appeal site boundaries, there is no evidence in the application that this additional land is within the appellant's ownership or that it forms part of a related agricultural holding.
8. Schedule 2, Part 6, Class B.1(a) of the GPDO states that development is not permitted by Class B if it would be carried out on a separate parcel of land which is less than 0.4 hectares in area. In this case, the appeal site is itself less than 0.4 hectares in area and there is no evidence that it forms part of a larger agricultural unit. On that basis, the development fails to comply with the limitation contained in Class B.1(a).
9. The appellant's evidence states that an existing entrance to the site had become blocked due to overgrown greenery. The photograph provided with the appeal clearly shows a continuous soft highway verge with hedgerow planting behind, albeit with some gaps in the hedgerow. In contrast, the access as detailed in the application would introduce a larger and more clearly defined gap in the hedgerow and highway verge, with the gravel surface extending to the edge of the carriageway. Therefore, even if there had historically been some form of access in this position, the removal of vegetation combined with introduction of a graded, gravel surface would, in combination, amount to a material change in the appearance of the site, contrary to the limitation in Class B.1(b).
10. Furthermore, the access would include land immediately adjacent to the metalled surface of Vineyards Road. The Council's Officer Report states that Vineyards Road is a classified road. This is acknowledged on the application form and no further evidence has been provided to the contrary. On that basis, the development also fails to comply with the limitation in Class B.1(c) which excludes development within 25 metres of a metalled part of a classified road from the definition of permitted development.
11. Even if I were to accept the appellant's contention that the development is reasonably necessary for the purposes of agriculture, it would not benefit from the permitted development rights set out in the GPDO due to the conflict with Class B.1 parts (a), (b) and (c), as set out above. I therefore conclude that the development in question does not constitute permitted development for agricultural purposes, as defined in Schedule 2, Part 6 of the GPDO.

Conclusion

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

Jane Smith

INSPECTOR