



Appeal Decision

Site visit made on 5 September 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2023

Appeal Ref: APP/X1355/W/23/3324063

Fairhills, Huntshildford, St Johns Chapel, Durham DL13 1RQ

- 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, Class A of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Mrs Samantha Shrimplin against the decision of Durham County Council.
 - The application Ref DM/22/03179/PA, dated 4 July 2022, was refused by notice dated 22 December 2022.
 - The development proposed is general purpose agricultural building.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Schedule 2, Part 6, Class A (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits the carrying out, on agricultural land comprised of an agriculture unit of 5 hectares or more in area, of works for the erection of a building which is reasonably necessary for the purposes of agriculture within that unit, subject to a number of criteria. Paragraphs A.2.(1) to (7) of Class A set out a range of conditions that the permission granted by Class A is subject to. Amongst these, paragraph A.2.(2) states that the developer is required to apply to the local planning authority for a determination as to whether the prior approval will be required as to the building's siting, design and appearance.
3. The Council's position is that the proposal is not considered permitted development under Class A Part 6 as significant engineering operations would be required for the siting of the proposed building and it is not considered that the proposed development would constitute development reasonably necessary for the purpose of agriculture within an established agricultural unit. Despite its conclusion in relation to the validity of relying on Part 6 provisions in the GPDO, the decision notice states that the development would unacceptably harm the surrounding landscape.
4. Thus, having regard to the above, the main issues are
 - whether or not the proposed development would constitute permitted development under the terms of Class A of Part 6 of the Order; and if so
 - whether the siting, design and appearance of the building are appropriate in their contexts.

Reasons

5. As set out in Paragraph D.1 of Part 6 of the GPDO, in order to benefit from permitted development (PD) rights for a new agricultural building under Part 6 Class A paragraph A.(a), before the development is carried out, the land to be built on must be in use for agriculture, which is so used for the purposes of a trade or business, within a unit of 5 hectares or more. Therefore, a building cannot be considered to fall within PD rights if the agricultural business has not been established.
6. While not defined in the GPDO, Section 336 of the Town and Country Planning Act 1990 defines agriculture to include activities such as the use of land for seed growing, grazing, breeding and keeping of livestock. It is not in dispute that agricultural activities take place at the appeal site and that the agricultural unit is over 5 hectares. Based on the evidence before me and observations on my site visit, I have no clear reason to disagree. However, the Council suggest that the scale of activity at the site does not represent an agricultural enterprise for the purposes of the GPDO.
7. The appellant has provided a Planning and Agricultural Needs Statement which sets out that they manage the land and livestock at the appeal site. The building is said to be required to accommodate farm machinery securely, store animal feeds and medicine and provide a handling area and shelter for livestock. The statement includes information such as a parish holding number, a single business identifier and a single farm payment reference, and it is said that while it is a new business the farm is operated as such with clear investment in it. However, the limited information provided does not necessarily convey or quantify an existing agricultural business or trade use at the site.
8. Although the appellant's submissions refer to intended activities at the site, including breeding livestock, the purchase of additional equipment and a desire to develop and grow the activities carried out at the site, there is little substantive information to demonstrate the nature or commercial basis of the existing activity. This does not therefore add weight to a case required to demonstrate an existing agricultural business or trade.
9. While the Council indicate that the activities at the site amount to 'hobby farming', I am mindful that it is not essential that an agricultural enterprise be profitable, or of a particular scale, to come within the GDPO requirement of agriculture as a trade or business. Nevertheless, while there is evidence of agricultural activity at the site, these activities have not been clearly demonstrated to be grounded on a commercial agricultural basis. I am therefore unable to conclude that the agricultural land at the appeal site is currently in use for the purposes of a trade or business.
10. The Council also have concerns that owing to the steeply sloping site, significant engineering operations would be required. The appellant indicates that as part of the proposed scheme the land would be re-graded. The submitted plans show that the land levels would be significantly altered to accommodate the proposed building and state that 1,590 cubic metres of material would be removed from the site. Even if this material was to be used onsite to repair walling and in the construction of the proposed building, it would require mechanical excavations of such a scale that it would amount to an engineering operation.

11. For the purposes of Part 6 of the GPDO, it is clearly set out at Paragraph D.1 that a building does not include anything resulting from engineering operations. Owing to the required change in land levels, the proposed development would not therefore amount to a building that would be permitted by Part 6 of the GPDO.
12. Overall, taking the above into account, the appeal scheme would not comply with the description of permitted development as it is set out by Schedule 2, Part 6, Class A of the GPDO. As the proposal would not be permitted development, it is not necessary for me to consider the prior approval matters of siting, design and external appearance.

Other Matters

13. I have no reason to doubt the appellant's suggestion that the appeal proposal would make the activities carried out at the site easier by providing shelter to maintain the farm machinery, facilitate ease of access and egress of the machinery and making hay more accessible in winter months. While a benefit of the proposal it is largely private and has not therefore influenced my decision. Similarly, there is said to be local support for the scheme, and the appellant is seeking to encourage new wildlife through improved hedgerow and planting at the site, however these matters do not affect my findings on the main issues above.

Conclusion

14. For the reasons set out above, and having regard to all the matters raised, I conclude that the appeal is dismissed.

F Harrison

INSPECTOR