



Appeal Decision

Site visit made on 6 July 2023

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2023

Appeal Ref: APP/W0340/W/23/3315348

Priory Farm, Priory Drive, Beech Hill, Reading, RG7 2BJ

- 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) (England) Order 2015 (as amended).
 - The appeal is made by Mr Tracey Rolfe against the decision of West Berkshire District Council.
 - The application Ref 22/02782/AGRIC, dated 8 November 2022, was refused by notice dated 2 December 2022.
 - The development proposed is Agricultural barn for the storage of hay and straw.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Concerns have been expressed by the Council that the appellant has submitted amended and/or additional information through the appeal process. Namely, that the original location plan has been amended, an updated Farm Business Tenancy document has been submitted, and that substantial more justification for the proposal has been provided. The Council further advances that, since the submitted documents have not been through a public consultation period, acceptance of the information would not be appropriate having regard to the Wheatcroft Principles.
3. With regards to the amended location plan, the appellant has confirmed that the location plan submitted as part of the original application is to be considered. I have therefore disregarded the updated plan. As such, the appeal proposal remains consistent with that proposed at the original application stage.
4. The appellant contests that the Farm Business Tenancy document has been updated from that previously provided to the Council. In any case, the Council has had an appropriate opportunity during the appeal to comment on this document as well as the appellant's additional justification for the proposal. Additionally, representations to the appeal have also been received from Beech Hill Parish Council.
5. It seems other than the Parish Council, no other parties submitted representations in relation to the original application. I am mindful that this does not necessarily mean that third parties would not wish to consider or comment on the appeal. However, as acknowledged by the Council in its determination of the application the prior notification process does not include any third-party consultation, including neighbours.

6. As such, having regard to the Wheatcroft principles, I am satisfied that no party will be prejudiced by my consideration of the additional material submitted by the appellant.

Background and Main Issues

7. Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO) permits the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of (a) works for the erection, extension or alteration of a building which is reasonably necessary for the purposes of agriculture within that unit.
8. Condition (2)(i) of paragraph A.2 includes the requirement for the developer to apply to the Local Planning Authority for a determination as to whether prior approval would be required for the siting, design, and external appearance of the agricultural building.
9. The Council's reason for refusal states that the development is not on land that is considered to be an agricultural unit, whilst it had not been demonstrated that the proposal was reasonably necessary for the purposes of agriculture. Consequently, the proposal was not deemed permitted development under Schedule 2, Part 6 of the GPDO.
10. My determination of this appeal is therefore firstly made in respect of whether the proposal falls within the definitional scope of permitted development set out in Schedule 2, Part 6 of the GPDO. Should I conclude that the proposal falls within the scope of this part of the GPDO, consideration must then be given to matters relating to the siting, design, and external appearance of the building.
11. In light of the above, the main issues are:
- whether the proposed development falls within the terms of the permitted development rights under Schedule 2, Part 6, Class A of the GPDO; and if so
 - whether prior approval should be granted having regards to the proposed developments' siting, design, and external appearance.

Reasons

Whether permitted development

12. The appeal site is a parcel of land to the south of the village of Beech Hill that is largely enclosed by boundary hedgerow. It is accessed from Trowes Lane via an existing agricultural gateway. The appellant informs that the site is a pasture field that he uses to produce hay and for the grazing of livestock. At the time of my site visit, the condition of the land suggests that it was used in this manner, while several large, wrapped, hay bales could be viewed on the site.
13. I understand the proposed building would be used for the dry storage of hay, as well as straw to be used for livestock bedding and feed. I am informed that the appellant produces the hay for storage off approximately 120 acres of land that is leased from the landowner.
14. As indicated, for the proposal to be permitted development under Part 6, Class A of the GPDO, it must be on land solely used for agriculture comprised in an

agricultural unit. It must also be reasonably necessary for the purposes of agriculture within that unit.

15. For the purpose of Class A 'agricultural land' is defined as land in use for agriculture and which is so used for the purposes of a trade or business¹. Agriculture is not defined in the GPDO, but s336(1) of the Town and Country Planning Act 1990 (TCPA) provides examples of agricultural activities, which includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock, the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds.
16. The appellant's submitted appeal statement acknowledges that the appeal site forms part of a larger agricultural unit at Priory Farm measuring approximately 49.7ha. This has partly been illustrated within the 'blue line' on the submitted site location plan. Although the Council has raised concerns that the submitted site location plan does not identify the whole agricultural unit, it does not contest that the site is part of the wider Priory Farm unit that measures more than 5ha.
17. However, the Council has drawn my attention to the planning history for Priory Farm. Notably, this includes planning permission (ref: 18/02662/COMIND), granted in 2019, for the retrospective change of use from agricultural to mixed agricultural and equestrian uses, along with the erection of a replacement barn. As the appeal site forms part of Priory Farm, the Council claim that the agricultural unit to which the appeal site relates is in a mixed agricultural and equine use and therefore does not benefit from the permitted development rights conveyed under Part 6 of the GPDO.
18. I do not have the full details of that previous permission (18/02662/COMIND). However, I am aware that the current appeal site was shown to be part of the application site to which that permission relates. The appellant argues that the land that the appeal relates to has not been used for equine purposes. It is further indicated that a land use plan associated with the previous planning permission (18/02662/COMIND), shows only land surrounding Priory farmyard to be used for equestrian purposes, with the appeal site instead being outlined for use as agricultural land.
19. During my site visit, Priory Farm appeared to incorporate livery facilities, with evidence of stabling/horseboxes and several horses present in paddocks. There was no evidence of the appeal site itself being used for equine related activities, with such uses instead appearing to be on land further north of the site, and more closely associated with the farmyard. Indeed, third party evidence also suggest that horses have not been viewed on the appeal site itself.
20. Nevertheless, even if the appeal site has not been used for equestrian purposes, from the evidence before me and my observations on site, it remains that it is part of a wider agricultural unit at Priory Farm which is in mixed agricultural/equestrian use. As such, I do not consider the proposal benefits from the permitted development rights expressed under Part 6 of the GPDO.
21. Furthermore, the Council has also drawn my attention to the fact that the previous change of use application (ref 18/02662/COMIND) was submitted by

¹ In considering whether it is used for the purpose of trade or business, I recognise that commercial viability is not a prerequisite.

the landowner of Priory Farm. The associated ownership certificates submitted with that application (dated 20 September 2021) identified that there were no agricultural tenants on the land. That previous landowner is understood to still own Priory Farm, including the appeal site. Doubts have therefore been outlined as to whether the current appellant has an ownership interest in the appeal site (e.g. has a lease arrangement).

22. I recognise that land is often farmed by tenants without formal contracts in place. Nonetheless, the onus is on the appellant to demonstrate that the proposal is permitted development under the GPDO. Additionally, in light of the site's planning history, I do not find the Council's request for evidence of a tenancy agreement, to help demonstrate that the proposal is associated with a trade/business, to be unreasonable.
23. The appellant has provided a copy of a Farm Business Tenancy², which suggests the appellant has agreed a lease of the appeal site (and surrounding land) with the landowner from September 2022 until September 2025. However, whilst appearing to be signed by the relevant parties, the document is neither appropriately dated nor witnessed. It therefore does not satisfactorily demonstrate that the appellant has a tenancy agreement in place.
24. I note the appellant highlights that he has been an active farmer for in the region of 35 years. However, there is insufficient evidence before me to both establish this and to demonstrate that the appeal site is being used for trade/business purposes. No specific details of commercial activities have been provided, for example, records of sales or business accounts, nor are there any corroborative statements from appropriate third parties to confirm that the appeal land has been used as suggested.
25. Overall, the observed conditions of the site, alongside information submitted by the appellant (e.g. incomplete tenancy agreement and photographs of past agricultural activities) is not sufficiently robust or definitive to determine that the appeal site is used for the purpose of a trade or business. Therefore, even if the appeal scheme were to be shown to comprise land solely in agricultural use, in an agricultural unit, I remain unable to determine that the proposal falls within the definitional scope of permitted development set out in Part 6 of the GPDO.

Siting, Design and External Appearance

26. As the proposal has not been demonstrated to accord with the requirements of the GPDO, it is not necessary for me to consider whether to grant prior approval in terms of the proposal's siting, design, and external appearance.

Other Matters

27. My attention has been drawn to the fact that the Council has allowed several other prior approval applications for agricultural buildings nearby, while the appellant claims that these have not required the same level of justification as the appeal scheme. However, I do not have the full details of the circumstances which led to those proposals being accepted. As such, I cannot be certain that they represent a direct comparison to the proposal before me. In any case, the appeal has been determined on its own merits.

² Prepared by Simmons & Sons Surveyors LLP, Ref: FH.2019.005

28. Similarly, to support its case the Council referenced an appeal decision³. Again I do not have the full details of that appeal decision, however, from the available information its precise context appeared somewhat different to the scheme before me. As such, it was not influential in me reaching my above views, which were instead based on the appeal schemes own merits.
29. I recognise, that the National Planning Policy Framework seeks to support a prosperous rural economy, indeed, agricultural permitted development rights are one such tool to enable this. Be that as it may, the appeal decision needs to be taken in accordance with the requirements of the GPDO.

Conclusion

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

Lewis Condé

INSPECTOR

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