



Appeal Decision

Site visit made on 12 February 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal Ref: APP/R0660/W/23/3321731

Fernside, Frog Lane, Pickmere, Cheshire East WA16 0LJ

- 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) (England) Order 2015 (as amended).
 - The appeal is made by Mr Roy Dyson against the decision of Cheshire East Council.
 - The application Ref 23/0795M, dated 27 February 2023, was refused by notice dated 24 March 2023.
 - The development proposed is a detached agricultural building.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development (England) Order 2015 (the Order) allows for the erection of a building, which is reasonably necessary for the purposes of agriculture, on agricultural land comprised in an agricultural unit of 5 hectares or more. Additionally, to be permitted under Part 6, Class A of the Order, the development must also accord with further limitations and conditions.
3. The Council considers that the development does not fall within Part 6, Class A because in its view the development would not be sited on a parcel of land used for agriculture; would not be sited on an agricultural unit of 5 hectares or more in size; and it has not been demonstrated that the building is reasonably necessary for the purposes of agriculture.
4. In view of the above, the main issue is whether it has been demonstrated that the proposal would be permitted development under Part 6, Class A of the Order.

Reasons

5. The appeal relates to a section of land, consisting of both hard surfacing and well-maintained grassland, to the rear of a stable building that at the time of my site visit was being used for storage purposes. This stable building adjoins a large, detached outbuilding which at the time of my site visit appeared to be in use as a residential annex in association with the large residential dwelling at Fernside.
6. The dwelling at Fernside is situated to the south of the appeal site and has a large garden area which includes a substantial pond. The dwelling and its

- associated outdoor amenity space, along with the aforementioned annex and stable buildings, have all been included within the site edged blue.
7. Furthermore, the submitted site edged red shows that the appeal site / building would be accessed from the main gated access and driveway which currently serves the dwelling at Fernside.
 8. As set out above, the permitted development right conveyed by the Order is conditional, under paragraph A of Class A, on the proposed building being erected on agricultural land comprised in an agricultural unit. Clarification of the interpretation of Class A is provided at paragraph D.1.(1) to Part 6 where it states that "agricultural land" means 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.
 9. There is no definition in the Order for the meaning of 'agriculture'. It is therefore taken from s336(1) of the Town and Country Planning Act 1990, which sets out examples of agricultural activities. The s336(1) list is not exhaustive but includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes.
 10. At the time of my site visit a tractor and small trailer were parked on the appeal site, however there were no clear agricultural operations ongoing on this land and the grassed area appeared well-maintained. I note that a revised site plan (*Ref: 23-008-03*) has been submitted identifying the residential curtilage of Fernside, with the appeal site excluded from this curtilage. I also acknowledge the appellant has stated the land surrounding the residential curtilage shown on this plan is used by livestock.
 11. Nevertheless, I observed on my site visit that other than a path and a low hedge surrounding the pond there was no clear delineation between the appeal site, the outdoor amenity area of Fernside and the immediate surrounding land within which the appellant states is used by livestock. Additionally, at the time of my site visit there was no livestock within this surrounding land. Furthermore, and as mentioned earlier, the proposed building is shown to be accessed via the main gated access and driveway which currently serves the dwelling, and its annex building, at Fernside.
 12. In view of the above, there is insufficient evidence before me that the land upon which the building would be sited is in agricultural use and is used for the purposes of a trade or business.
 13. In coming to this view, I acknowledge the appellant's submission that they currently own 44no. sheep, and during my site visit I observed some sheep in a field on the opposite side of Frog Lane which according to the submitted details is in the appellant's ownership. I therefore do not have any reason to doubt that the appellant owns livestock.
 14. However, notwithstanding this, to benefit from permitted development rights under Part 6, Class A, the land upon which the proposed building is to be sited

must be in agricultural use. For the reasons given above, and my observations during my site visit, I am not convinced that the proposed development would be carried out on agricultural land as required by the Order.

15. The proposed development would therefore not be permitted under Part 6, Class A of the Order. On this basis it is not now necessary for me to consider whether the agricultural unit comprises of 5 hectares or more, or whether the proposed development would be reasonably necessary for the purposes of agriculture.

Conclusion

16. I conclude that the proposed development would fall outside the scope of that permitted under Part 6, Class A of the Order and the appeal should be dismissed.

R Major

INSPECTOR