
Appeal Decision

Site visit made on 5 March 2024

by J Hills MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal Ref: APP/W1145/W/23/3325909

Yapham, Hartland EX39 6AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Raised Spirit Ltd against the decision of Torridge District Council.
 - The application Ref is 1/0214/2023/AGR.
 - The development proposed is timber clad barn for storage of hemp and agricultural machinery.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GDPO) permits the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of works for the erection, extension or alteration of a building which are reasonably necessary for the purposes of agriculture within that unit.
3. Paragraph A.2(2) (i) of the GPDO states that for development permitted by Class A the developer must, before beginning the development, apply to the local planning authority for determination as to whether its prior approval will be required as to the siting, design and external appearance of the building.
4. Therefore, the question of whether the proposal would be permitted development needs to be dealt with ahead of any consideration of the prior approval details. In that context, there is no dispute between the main parties that the land holding is in excess of 5 hectares.
5. However, the Council determined that the proposed building was not permitted development. It considered that the appellant had not provided sufficient evidence to demonstrate the proposal was reasonably necessary for the purposes of agriculture. Amongst other things, it was noted that there was no evidence of crops being grown.
6. Additionally, the Council contended that prior approval for the siting of the proposed building was required due to the effect on the character and appearance of an Area of Outstanding Natural Beauty (now known as a National Landscape) and nearby scheduled monuments. The Council has not

identified any issues in relation to the design and external appearance of the proposed building.

Main Issues

7. The main issues are:

- whether the proposed development would be permitted development; and if so
- 8. • the visual effect of the proposed development on the surrounding area having regard to its siting.

Reasons

Whether permitted development

9. Paragraph D.1. of the GPDO states clearly that, for the purposes of Class A, “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’. This means that there must be an existing agricultural use and it must be operating as a business before buildings can be erected under Part 6. It follows therefore that where the agricultural use has not yet started, the land cannot benefit from Part 6 permitted development rights.
10. The landholding is separated into two parcels. The larger of the two would accommodate the proposed building. This parcel of land forms part of a much larger field outside of the appellant’s ownership. At the time of my visit, the appeal site and the larger field it adjoins had the overriding appearance of open grassland with little evidence of any hemp crop growing activity taking place. Whilst my observations only represent a snapshot in time, recognising that crops may have been planted and the appearance of the land may change during the course of the year, the appeal site did not appear to be in an agricultural use as set out above.
11. Notwithstanding my observations, in respect of submitted evidence, the appellant refers to a registered agricultural business as Heartland High Ltd. Additionally, they supply a holding number, though it is noted that such a number is not evidence of the use of land as agriculture. Furthermore, a Home Office cultivation licence is submitted, though this expired at the end of December 2023. Nevertheless, based on the evidence before me, it is likely the appeal site is part of an agricultural business.
12. The appellant says that the land is already being used for cultivation and a hemp crop was planted last year. However, it is not specified how much or where the hemp is being grown. Their agent’s covering letter advises that fertilisers and soil improvers have been added to the field in recent years, though the growing of hemp is not identified as a current activity on the appeal site. The evidence is not sufficiently robust in this regard.
13. Information is submitted claiming to prove the need for the proposal. However, this largely includes website links to generic hemp yields. A calculation provided refers to 275 acres of hemp grown at Hartland, which would exceed the storage capacity of the proposed building. However, no information is

provided as to the status, location or how this other land is fundamentally linked to this business. Therefore, these figures cannot be relied upon. Furthermore, the application form is left blank in the section that asks whether the proposed development is reasonably necessary for agriculture. Moreover, whilst there is an accompanying letter of intent from a farmer, this does not demonstrate any security of tenure relating to an existing agricultural activity.

14. In that context, there is little evidence provided to explain the type or scale of agricultural machinery needed in association with the holding. For these reasons, it has not been demonstrated that the appeal site or business would generate the suggested required storage facilities for its intended use.
15. Taking all matters into consideration, although the appeal site may be part of an agricultural business, the submitted evidence does not go far enough to demonstrate, that on the balance of probabilities, it is currently agricultural land as defined above. Additionally, the evidence does not demonstrate that the proposed building is reasonably necessary. As such, the proposal cannot benefit from permitted development rights granted by the GPDO.
16. As the proposal would not be permitted development, it is not necessary for me to consider the prior approval application any further. This would include whether the appeal proposed would be acceptable in terms of its siting within the context of heritage and landscape features.

Other Matters

17. I have paid regard to the appellant's comments in respect of relocating their family. However, I have determined the appeal on the planning merits of the development within the context of the GPDO.

Conclusion

18. For the reasons given, the appeal is dismissed.

J Hills

INSPECTOR