



Appeal Decision

Site visit made on 4 June 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 15th July 2024

Appeal Ref: APP/Q9495/W/23/3335588

Low Birker Farm, Boot, Cumbria CA19 1TH

- 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 E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Bill Taylor against the decision of Lake District National Park Authority.
 - The application Ref is 7/2023/4018.
 - The development proposed is forestry equipment storage shed.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address on the application form refers to Gubbergill to Cockley Beck Road. As this is not precise, I have removed it from the address in the heading above.
3. The Authority requested further details of the proposed building for the prior approval process. However, I have no substantive evidence that the application was determined outside the statutory time-scale.

Main Issue

4. The main issue is whether the proposal would be development permitted under Schedule 2, Part 6 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

Reasons

5. Class E of Part 6 of the GPDO permits the carrying out on land used for the purposes of forestry, including afforestation, of development necessary for those purposes consisting of:
 - (a) works for the erection, extension or alteration of a building;
 - (b) the formation, alteration or maintenance of private ways;
 - (c) operations on that land, or on land held or occupied with that land, to obtain the materials required for the formation, alteration or maintenance of such ways;
 - (d) other operations (not including engineering or mining operations)

6. The site at Low Birker is reached by a track, which is also a bridleway. This passes in front of the farmhouse and adjoining buildings which overlook a large, flat, turning and parking area, surfaced with hardcore.
7. Between this and the bridleway which rises above the site, is a steep, grassy bank. The proposed storage shed would be built into the bank, over the stump of a large ash tree that was diseased and removed, and across the bridleway which is bounded by traditional stone walls. The building would be used to store equipment, fencing supplies, saplings, tree stakes and guards.
8. The appellant has some 45 acres of land surrounding the farmhouse which contains parcels of woodland. The storage shed is to enable an increase in the existing woodland and hedging at Low Birker, as well as additional planting along the River Esk in association with the Environment Agency and West Cumbria Rivers Trust. Additionally, the building would be used to support the creation of woodland at Murthwaite, where at least 50 acres of land would be planted with native hardwood saplings. This has been authorised and is supported by both these bodies as well as the Cumbria Community Forest and the Forestry Commission.
9. The appellant contends that this is the only suitable location for the building on the landholding, and constructing one at Murthwaite would cause security issues. However, the location of the shed within the bank and across the bridleway, appears to suggest that the site of the building is not an integral part of the forestry operation. Therefore, based on the evidence, it has not been sufficiently demonstrated as to the role of the appeal site in the forestry operation within the vicinity.
10. As the evidence before me indicates that the land where the building would be located is not 'land used for the purposes of forestry', the proposed storage building is not permitted development under Class E of Part 6 of the GPDO.
11. As the proposal would not be permitted development, I have no reason to consider the prior approval matters regarding siting, design and external appearance.

Other Matters

12. The proposed development is located on a bridleway and as agreed by the parties, would require a Bridleway Diversion Order. This does not, however, affect matters relating to whether the proposal is permitted development.

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

M J Francis

INSPECTOR