

Appeal Decision

Site visit made on 9 August 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2024

Appeal Ref: APP/P2114/W/24/3341523

Red Squirrel Farm, Palmers Lane, Newchurch PO36 0NL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant, subject to conditions, of approval granted 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 Mark Wessler against the decision of Isle of Wight Council.
 - The application Ref is 24/00309/6PA.
 - The development is agricultural prior approval for agricultural storage barn, polytunnel, greenhouse and hardstanding.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of 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 'GPDO') for agricultural prior approval for agricultural storage barn, polytunnel, greenhouse and hardstanding at Red Squirrel Farm, Palmers Lane, Newchurch PO36 0NL in accordance with the application 24/00309/6PA and the details submitted with it pursuant to Schedule 2, Part 6, Class A of the GPDO.

Preliminary Matters

2. The description of development used in the banner heading above is that stated on the notice of decision. I have used this as it more accurately describes the development proposed than that given on the application form.
3. Schedule 2, Part 6, Class A of the GPDO permits the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more works for the erection of a building which are reasonably necessary for the purposes of agriculture within that unit. 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. Thus, 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, the Council's decision indicates that in its opinion the proposed development does not comply with the limitations of Part 6, Class A of the GPDO because the development is not on agricultural land as defined in Part 6.

Main Issues

4. It follows from the above that the main issues are:

- whether or not the proposed development benefits from the provisions of Schedule 2, Part 6, Class A of the GDPO; and,
- if so, whether the siting, design and appearance of the buildings are appropriate in their contexts.

Reasons

5. For Part 6, Class A of the GPDO the meaning of 'agricultural land' is given under paragraph D.1 as 'land which, before development permitted by this Part is carried out, is land in use for agriculture which is so used for the purposes of a trade or business, and excludes any dwellinghouse or garden'.
6. The Council state that at the time of the application there was no activity or commenced agricultural use with the appellant's supporting statement confirming that the first trade season had not yet started. As a result, it considered that the agricultural trade or business had not commenced at that point in time. The Council do however acknowledge in its Delegated Report that it is possible that a barn, greenhouse and polytunnel would be permitted development once the business is operating.
7. At the time of my site visit, there were sheep grazing in one of the fields, fruit trees planted, fruit and vegetables being grown and the presence of bee hives. Furthermore, there was a tractor, water tanks and storage containers with equipment for farming with the appellant's evidence demonstrating that this is the first year of the business with the organic produce being sold to local restaurants and local customers via vegetable boxes. In light of this, I find that the land is in use for agriculture and therefore on agricultural land.
8. In addition, the appellant submits that the land had no buildings, and that the storage barn would allow for the storage of the tractor, agricultural equipment for the maintenance of the land and for the drying of onions, garlic and pumpkins amongst other produce. The greenhouse and poly tunnel would be used to grow heat loving plants and enable the germination and propagation of plants to extend the growing season. As such, the amount of equipment likely to be required and space provided for it would be commensurate with the modest needs and the proposed buildings would be reasonably necessary for the purposes of agriculture within that unit.
9. In light of the above, I find that the definitional requirements applicable to Part 6 have been met. I therefore conclude that the proposal is reasonably necessary in conjunction with an established agricultural enterprise and benefits from the provisions of Schedule 2, Part 6, Class A of the GPDO.

Siting, design and appearance

10. The proposed storage barn would have a floor area of around 135sqm and would be approximately 3m at its highest point. The polytunnel would have a floor area of approximately 60sqm with the glazed greenhouse being approximately 32sqm. Although there are no plans of the heights of the greenhouse and poly tunnel, the evidence states they would be below 3m.

11. The immediate area is characterised by small to medium sized grazing fields enclosed by hedges within a small valley. The wider area is characterised by the rolling countryside with its interspersed woodlands and occasional buildings. The proposed barn would be sited at the side of the field adjacent to a tall hedgerow, with the greenhouse and poly tunnel in close proximity. The buildings would be typically agricultural in appearance and of a small scale such that they would not appear unduly prominent or out of place in an agricultural landscape interspersed with buildings.
12. Only limited longer-distance views of the appeal site are available due to the topography, planted field boundaries and woodland. However, the buildings would be below the crest of the valley hill a considerable distance from the access road. As such, they would not be overly prominent or out of place in an agricultural setting and would not be visible from the road.
13. While the location for the storage barn slopes slightly, it is of such a small gradient that any levelling would be very minimal and would not be harmful to the landscape.
14. Care has been taken to ensure that the locations for the buildings are outside of the National Landscape (NL) with the plans detailing a new hedge running parallel. In addition to the locational characteristics detailed above, this will ensure no harm to the landscape or scenic beauty of the NL to which I have given great weight.
15. For the above reasons the proposed siting, design and appearance of the buildings would be appropriate in their context.

Other Matters

16. It has been put to me that conditions on a separate planning permission¹ have not been adhered to, the proposal would result in additional traffic with the selling of goods from the site. However, as the matters for consideration in this appeal are related to those set out in the relevant paragraphs of the GPDO, this issue falls outside of the matters that I can consider.

Conditions

17. The GPDO does not provide any authority for imposing additional conditions beyond the deemed conditions for agricultural development on units of 5 hectares or more in paragraphs A.2(2)(v) and (vi). These specify that the development must be carried out in accordance with the approved details submitted with the application and within 5 years of the date of approval. As such, there is no reason for me to impose any additional conditions.

Conclusion

18. For the reasons set out above, I conclude that the appeal should be allowed, and prior approval granted.

C Rose

INSPECTOR

¹ 22/01850/FUL