

Appeal Decisions

Site visit made on 19 August 2024

by Peter White BA(Hons) MA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2025

Appeal Ref: APP/W0530/W/23/3314190

Moat Farm, Park Lane, Castle Camps, Cambridgeshire CB21 4SR

- 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 GPDO").
 - The appeal is made by Mr Michael McGarr of English Architectural Oak Design and Construction against the decision of South Cambridgeshire District Council ("the LPA").
 - The application Ref 22/05031/PRIOR dated 16/11/2022, was refused by notice dated 05/12/2022.
 - The development proposed is described as the creation of two permitted development irrigation reservoirs each 10,000 cubic metres, the topography of the land is such that the reservoirs will be shallow to deeper with a depth of circa average 1.5 metres, the bunds added will be completed with drains for overflow that will allow excessive rainwater to be directed away to the existing water course, the bund will be created with existing soil and imported inert material all logged and within the permit by the EA transported with a Waste transfer licence, what should be fully understood the wording of "waste transfer" is a generic term and only inert clean soil will be utilised sourced very locally.
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Decision

1. The appeal is dismissed.

Reasons

2. Article 3(1) of the GPDO, grants planning permission for the classes of development described as 'permitted development' in its Schedule 2.
3. Subject to limitations and conditions, and in an agricultural unit of 5 hectares or more in area, Schedule 2, Part 6, Class A permits the carrying out, on agricultural land, of any excavation or engineering operations which are reasonably necessary for the purposes of agriculture within that unit.
4. However, Article 3(10) excludes Schedule 1 or Schedule 2 development, as described in the Town and Country Planning (Environmental Impact

Assessment) Regulations 2017 ("the EIA Regulations"), from any grant of planning permission under Article 3(1) unless:

- a) the LPA has adopted a screening opinion that the development is not EIA development;
 - b) the Secretary of State has made a screening direction that the development is not EIA development; or
 - c) the Secretary of State has given a direction that the development is exempted from the application of those Regulations.
5. Schedule 2 of the EIA Regulations describes development and sets applicable thresholds and criteria for the purposes of the definition of "schedule 2 development". It includes water management projects for agriculture, including irrigation and land drainage projects, where the area of the works exceeds 1 hectare (ha).
 6. The development before me is the creation of 2 x agricultural irrigation reservoirs within an area of 15,908sqm (i.e. 1.59ha). The development proposed is therefore Schedule 2 development, being a water management project for agriculture which exceeds the threshold.
 7. Article 3(10) of the GPDO therefore applies. Criterion (a) is not met, as the appeal questionnaire states that the Council did not issue an EIA screening opinion.
 8. In relation to criterion (b), between August and October 2024 the Secretary of State sought further information required to make an assessment from the applicant and landowner. Although some information was provided, it was insufficient for the Secretary of State to issue a screening direction that the development is not EIA development.
 9. In relation to criterion (c), the Secretary of State has not given a direction that the development is exempted from the application of the EIA Regulations. Neither do Articles 3(11) or 3(12) of the GPDO assist the appellant.
 10. Planning permission is therefore not granted for the development by Article 3(1) of the GPDO. Express planning permission is required for the development and that can only be granted on application made to the local planning authority in the first instance.
 11. It therefore does not fall to me to consider the effects of the siting of the proposed development arising from Schedule 2, Part 6, Class A of the GPDO.

Conclusion

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

Peter White

INSPECTOR