
Appeal Decision

Site visit made on 14 January 2025 by S Wilson LL.B. MSc MRTPI

Decision by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal Ref: APP/D0840/W/24/3351988

Land North of Tredavoe, Newlyn, Cornwall TR20 8FQ

- 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, 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 John Steadman against the decision of Cornwall Council.
 - The application Ref is PA23/10288.
 - The development proposed is prior approval for permitted development rights for an agricultural track under Class Order A: agriculture developments on units of 5 hectares or more.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The Council's reason for refusal relates to a lack of evidence to suggest that the subject appeal land is in agricultural use. Consequently, the main issue is whether or not the development would be carried out on agricultural land in an agricultural unit and is reasonably necessary for agricultural purposes such that it benefits from permitted development rights set out in the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO 2015) Article 3, Schedule 2, Part 6, Class A.

Reasons for the Recommendation

4. Schedule 2, Part 6, Class A of the GPDO 2015 relates to development that can be undertaken within an agricultural unit of 5 hectares. It allows for any excavation or engineering operations which are reasonably necessary for the purpose of agriculture within that unit.
5. The appellant maintains that Schedule 2, Part 6, Class A of the GPDO 2015 gives permitted development rights for farm roads and accesses and that the conditions are satisfied. The Council maintains that insufficient evidence has been submitted to demonstrate that the proposal relates to agricultural land in an agricultural unit currently in use for agriculture for the purposes of a trade or business. Consequently, the Council considers that the proposed development is not permitted development for the purposes of the GPDO 2015, and that planning permission is required.

6. There is no definition of agriculture in the GPDO 2015, therefore I have taken the meaning of 'agriculture' from the Town and Country Planning Act 1990 (TCPA 90). Section 336(1) TCPA 90 sets out examples of agricultural activities: '*...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, and "agricultural" shall be construed accordingly.*'
7. The appellant provides an affidavit as evidence that the land is in agricultural use. It sets out, amongst other things, that the land with a red outline has been used for agricultural purposes including rewilding and growing timber for over ten years. I note that rewilding is not listed within the agricultural definitions of section 336(1) TCPA 90. Whilst growing timber could be considered to fall within the definition of '*the use of land for woodlands*', the definition outlined above specifically mentions that use would only apply where it is ancillary to the farming of land or other agricultural purposes. The appellant maintains that the growing of timber at this location is ancillary to other agricultural uses on the rest of the holding. However, I have not been provided with evidence which confirms what form of agricultural operations are being undertaken on the rest of the holding. It therefore has not been demonstrated that the growing of timber is ancillary to the farming of land.
8. I conclude that the land subject to this appeal is not in agricultural use and consequently the proposed development would not fall within the definitional scope of permitted development as set out in Schedule 2, Part 6, Class A of the GPDO 2015.

Other Matters

9. There are several public objections; however, given the reasoning set out above I have not found it necessary to explore them any further.

Conclusion and Recommendation

10. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

S Wilson

APPEAL PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

Mr A Spencer-Peet

INSPECTOR