

Appeal Decisions

Site visit made on 5 September 2023

by **A James BSc (Hons) MA MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2023

Appeal Ref: APP/W0340/W/22/3309046

Lake House, West Woodhay, Newbury RG20 0BU

- 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(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 Mr C Brown of Lucy Developments Ltd against the decision of West Berkshire Council.
 - The application Ref 22/01585/AGRIC, dated 29 June 2022, was refused by notice dated 25 July 2023.
 - The development proposed is erection of a building for agricultural use and formation/alteration of a private way.
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Decision

1. The appeal is dismissed.

Applications for costs

2. A cost application has been made by Mr C Brown against West Berkshire Council, which is the subject of a separate Decision.

Preliminary Matters

3. In the interests of precision and conciseness, I have taken the address from the appeal form and decision notice.
4. Another appeal for 3 ponds, on land within the appellant's ownership is before me, which I have dealt with as a separate Decision.

Main Issues

5. The main issues are:
 - whether the proposed development would be permitted development 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) (GPDO);
 - whether the prior approval application was made before beginning the development as required by condition A.2 (2)(i); and,
 - should I conclude that the proposed development falls within the scope of this particular part of the GPDO, consideration must then be given to matters relating to the siting, design and external appearance of the building and the siting and means of construction of the private way.

Reasons

Whether permitted development

6. The appeal site comprises of approximately 21 hectares of residential and agricultural land. The northern part of the site contains a detached dwelling. The residential curtilage is surrounded by approximately 19 hectares of agricultural land. The agricultural land comprises of a vineyard, which covers an area of approximately 2.5 hectares. There is also a wildflower meadow, which the appellant states will produce crops and the land is currently cut for hay for local farmers.
7. For the purposes of Part 6, Class A, 'agricultural land' is defined as land in use for agriculture and which is so used for the purposes of a trade or business. Agriculture is not defined in the GPDO, but section 336(1) of the Town and Country Planning Act 1990 provides examples of agricultural activities. This includes the use of land for fruit growing, seed growing, grazing and meadow land.
8. The proposed building would support the viticultural use and the rest of the agricultural unit. The proposed building would comprise of floorspace for the intake of and pressing of estate grown grapes and space for the fermentation, preparation, storage and packaging of the wine. The appellant ascertains that 2-3 people are currently employed in relation to agriculture on the site and this number is likely to increase as the vineyard expands and becomes more established.
9. The Council considers that insufficient information has been submitted to demonstrate that the proposed building is 'reasonably necessary' for the purposes of agriculture. On my site visit, I observed a vineyard, clusters of sunflowers and wildflower meadows. While the vineyard is a fairly recent addition, Part 6, Class A only requires the land to be within agricultural use before the works under Part 6, Class A are begun. Whether a building is 'reasonably necessary' for the purposes of agriculture, does not carry with it any connotation of profit or business viability. The test is not whether the development is essential, but rather whether it falls within reasonable bounds. A building to support viticulture on the site and the remainder of the agricultural unit would fall into this category. Consequently, I find that the proposed building would be reasonably necessary for the purposes of agriculture.
10. The proposed building would be sited on gently sloping land and engineering works would be required to provide a level base. The Council considers that the engineering works would require planning permission. However, the proposed engineering works would fall within the scope of paragraph A (b), which permits any excavation or engineering works.
11. The proposal does not fall within the list of circumstances not permitted, as set out at paragraph A.1 of Part 6, Class A and this is not disputed between the parties. Based on the evidence before me and my site visit, I have no reason to reach a contrary conclusion on this matter.

Whether the prior approval application was made before beginning the development

12. The proposal description includes the formation/alteration of a private way. The appellant states that the proposed private way is not the same as the track that has been built on site. The proposed track would be sited in a similar location to the existing track; however, its alignment would not be as straight as the existing track. It would also have a grasscrete finish, which would be different to the existing hardcore track. The proposed track would follow at least part of the existing track and utilise the same vehicular access from North End Road.
13. The appellant contends that the GPDO allows for the alteration of a private way. The Council advises that a planning application for the existing track/private way was refused under Ref: 21/01347/FUL. Based on the evidence before me, it appears that the existing track is unauthorised. Consequently, works related to the appeal development have already taken place before the application for prior approval was made.
14. Given that the private way has already commenced, the proposal fails to meet the requirements of Condition (i) and therefore does not benefit from permitted development.
15. As the development is not permitted development, it is not necessary for me to make any determination on the prior approval matters.

Conclusion

16. For the reasons given above, I conclude that the proposal is reasonably necessary for the purposes of agriculture and the proposed engineering operations would fall within that permitted under Part 6, Class A, paragraph A(b). However, given that works to the private way have already commenced, the proposal fails to comply with Condition A.2 (2)(i) and therefore falls outside of the scope of that permitted under Schedule 2, Part 6, Class A of the GPDO. The appeal is therefore dismissed.

A James

INSPECTOR