



Appeal Decision

Site visit made on 11 August 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2020

Appeal Ref: APP/L3245/W/20/3248989

Sutton Farm, Sutton, Market Drayton, Shropshire TF9 2HZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Schedule 2, Part 6, Class A of the Town and Country Planning General Permitted Development (England) Order 2015 (the GPDO).
 - The appeal is made by Mr E R Birch and Son against the decision of Shropshire Council.
 - The application Ref 19/03252/AGR, dated 11 July 2019, was refused by notice dated 3 October 2019.
 - The development proposed is an agricultural building.
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Decision

1. The appeal is allowed and is prior approval granted under the provisions of Article 3(1) and Schedule 2, Part 6, Class A, Paragraph A.2. of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for an agricultural building, at Sutton Farm, Sutton, Market Drayton, Shropshire TF9 2HZ, in accordance with the application Ref 19/03252/AGR, dated 11 July 2019, and the details submitted with it pursuant to Article 3(1) and Schedule 2, Part 6, Class A, paragraph A.2.(2).

Preliminary Matter

2. I have used the more concise address given on the appeal form in the banner and formal decision above.

Background

3. Part 6, Class A of the GPDO permits the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of (a) works for the erection, extension or alteration of a building; or (b) any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within that unit. Paragraph A.2.(2) of Class A requires (amongst other things) the developer to apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building.
4. The prior approval procedure under Part 6, Class A makes no provision for any determination to be made as to whether the agricultural building is permitted development (PD). For the avoidance of doubt this decision does not purport to address the question of whether the development is PD. I am instead addressing the question of whether, should the scheme come within the status of PD, prior approval should be granted.

5. In any event, the Council has confirmed that it is satisfied that the proposal is reasonably necessary for the purposes of agriculture and meets the relevant conditions and limitations of Part 6, Class A, with the matter at issue being whether the proposal complies with the prior approval procedure in terms of siting, design and external appearance.
6. The Council refused the application on the basis that it considered that the proposal would have a detrimental impact on the character and appearance of the area and the rural landscape; that it would not provide the security sought by the appellant as it would be open fronted, and it would be in close proximity to neighbouring dwellings and potentially detrimental to occupants' living conditions.
7. However, the appellant also raises the question of whether the Council issued its refusal of prior approval within the relevant time limit set out at Paragraph A.2.(2)(iii).

Main Issues

8. The first issue, therefore, is whether the Council's decision was issued in time. If I find it was, it will be necessary to consider the effect of the siting, design and external appearance of the proposed development on the character and appearance of the surrounding area and the living conditions of neighbouring occupants.

Reasons

Timing of Council's decision

9. Paragraph A.2.(2)(iii) provides that the development subject to the prior approval process must not begin before the occurrence of one of the following: (aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required; (bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the applicant's application of their determination that such prior approval is required, the giving of such approval; or (cc) the expiry of 28 days following the date on which the application under subparagraph (2)(ii) was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination.
10. The appellant submits that the application was submitted on 18 July 2019. The Council states it received the application the following day on 19 July, which is the date given on its decision notice. Having regard to the judgement of the Court of Appeal in *Murrell*¹, concerning the adequacy or otherwise of the content of a prior approval application made under Class A and the validity of a subsequent determination, and on the basis of the evidence before me, I am satisfied that the application included the required information set out under Paragraph A.2.(2)(ii), and nothing within the Council's submissions indicated it considered any necessary information to be missing when the application was made. Therefore, the 28 day statutory period to determine whether prior approval was required commenced from the date it was received by the Council on 19 July 2019 and ended on 16 August 2019.

¹ *Murrell v SSCLG* [2010] EWCA Civ 1367

11. The Council notified the appellant on 16 August 2019 and therefore was within the time limit of Paragraph A.2.(2)(iii)(bb). Consequently, the Council had a period of 8 weeks to determine whether to grant or refuse prior approval, that being the default time limit set by Article 7(b) of the GPDO where Schedule 2 does not specify a time limit, which in this case Paragraph A.2.(2) does not for the second stage of the prior approval process. This period subsequently expired on 11 October 2019. The Council's decision notice is dated 3 October and was therefore issue in time.

Siting

12. The building would be located toward the lowest part of an agricultural field to the rear of a group of three dwellings on Sutton Lane. The field rises markedly to the north and limits long distance views in this direction. The corner of Market Drayton Golf Club is a short distance away, across a bridleway, but is largely screened by trees and hedgerows, such that the building would not be prominent in views from the golf course.
13. The building would be seen from the bridleway, but I observed the surroundings to have a number of agricultural buildings dotted across the landscape, and it would be viewed in the context of what is a prevailing agricultural character. Whilst it would be detached from the main buildings of Sutton Farm a short distance away on Sutton Lane, it would not appear isolated in the landscape given its proximity to the dwellings, which would also screen views of it from the lane.
14. The building would measure some 5.43 metres high to the ridge, 18.29 metres long and 7 metres wide. It would be sited some 10 metres from the rear boundaries of the dwellings, which comprises a high hedge and mature willow tree. I accept that the boundary treatments are not permanent features, but in the context of the rural location, I find it unlikely that they would be removed or significantly altered. Nonetheless, whilst the building would be visible directly behind the middle dwelling, Sutton Cottage, and obliquely from Willow Cottage and Sutton House, its prominence would be mitigated by the intervening vegetation, the openness of the surrounding field, and the separation distance from the dwellings, such that it would not appear incongruous or overbearing for occupants of the dwellings.
15. The appellant indicates that the building would be used for the storage of fodder and other equipment, and not for keeping livestock, which in the circumstances would not be a permitted use of a building erected under Part 6, Class A. On the evidence before me, I have no reason to doubt the appellant's stated intentions for the building, which would not generate significant levels of activity or noise which may disturb neighbouring occupants.
16. For these reasons, I find the siting of the proposed development would not harm the character and appearance of the area or the living conditions of neighbouring occupants.

Design and external appearance

17. The Council acknowledges that the design and appearance of the proposal is acceptable, it being a standard steel portal structure common to rural areas across the country. I have no reasons to disagree with the Council's position in this respect.

18. The Council questions the security the building would provide given it is open fronted. To my mind, this not directly relevant to the consideration of siting, design and external appearance, but event if considered a design issue, the appellant has indicated its proposed use is to store fodder and not livestock, and any risk of theft is low given its siting away from the road but close to the main farm building and the neighbouring dwellings, which would provide a degree of passive surveillance.

Conclusion

19. For the reasons set out, I conclude that the proposal would be acceptable with respect to its siting, design and external appearance, and prior approval should be granted. The appeal is therefore allowed.

K. Savage

INSPECTOR