



Appeal Decision

Site visit made on 6 June 2017

by **Grahame Gould BA MPhil MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27th June 2017

Appeal Ref: APP/V2255/W/17/3167692

Evaluna, Plumpudding Lane, Dargate ME13 9EU

- 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 appeal is made by Mr David Dighton against the decision of Swale Borough Council.
 - The application Ref 16/507703/AGRREQ, dated 18 August 2016, was refused by notice dated 23 December 2016.
 - The development proposed is agricultural barn for storing animal feed and machinery.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Prior to the application's determination by the Council amended plans (16/08/01 Rev B and 16/08/02 Rev D) were submitted to the Council and those drawings formed the basis of the Council's decision. I have therefore only had regard to the amended plans in determining this appeal.
3. The Council has made reference to an extant enforcement notice and dismissed appeals¹. However, the Council provided no copies of the relevant documentation with its originally submitted case. In order to assist my understanding of the appeal site's recent planning history the Council, at my request, has provided copies of the enforcement notice and the appeal decisions and I shall refer to that site history in more detail below.

Main Issue

4. The main issue is whether the development would constitute permitted development (PD) for the purposes of Class A of Part 6 of the Second Schedule of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order).

Reasons

5. The appellant has sought prior approval to construct an agricultural building utilising the PD rights conferred by the Order. Paragraph D.1(1) of Part 6 of the Order provides an interpretation (definitions) of Classes A to C and states that 'agricultural land means land which, before development permitted by this Part is carried out, is land in use for agriculture and which is so used for

¹ APP/V2225/C/14/2219797 and APP/2255/A/14/2217679

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the purposes of a trade or business, and excludes any dwellinghouse or garden’.

6. Importantly for the purposes of Part 6 of the Order ‘agricultural land’ has a narrower definition than is the case for ‘agriculture’ contained in Section 336 of the Act. Accordingly in order to benefit from Part 6 PD rights the agricultural land in question must be used for the purposes of a trade or business. At the time of my site visit there was some low key stock rearing being undertaken within the application site, with small numbers of sheep, cows, goats and emus being tended and around 100 chickens also being kept. At the site entrance there was signage advertising eggs for sale.
7. The Inspector who determined the previous appeals stated, on the basis of the appellant’s evidence, that there was a ‘... *low-key business component to the smallholding, it is not run on a commercial basis, nor is there any intention on his part to do so. His agriculturally-related activity is essentially portrayed as a hobby, with income derived primarily from other work ... At most the Appellant, on his own evidence, aspires to self-sufficiency rather than the operation of a profitable enterprise*’ (paragraph 43 of the Inspector’s decision).
8. The design and access statement accompanying the appealed application refers to the appellant’s future intentions and does not provide a firm indication that the land is being used for agricultural trade or business, as defined by the Order. On the basis of the activity that I saw on site and the previous Inspector’s understanding of the appellant’s long term intentions for the land’s use, I am not persuaded that the land is being used for a trade or business within the meaning of agricultural land for the purposes of the Order.
9. I therefore conclude, on the available evidence, that the development would not constitute PD for the purposes of Class A, Part 6 of the Second Schedule of the Order.

Conclusion

10. For the reasons given above the appeal is dismissed.

Grahame Gould

INSPECTOR