



Appeal Decision

Site visit made on 11 February 2020

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2020

Appeal Ref: APP/L2630/W/19/3236176

Agricultural Building, Church Farm, North of Rockland Road, Bramerton NR14 7DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by H Parker Ltd against the decision of South Norfolk District Council.
 - The application Ref 2019/0791, dated 29 March 2019, was refused by notice dated 29 May 2019.
 - The development proposed is Notification for Prior Approval for a proposed change of use and associated building works of an agricultural building to a dwellinghouse (QA and QB).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are whether the proposal would be permitted development under Schedule 2, Part 3, Class Q of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), and if so, the effect of the proposal on a hedgerow and highway safety.

Reasons

3. The appeal building is situated some distance from the road between a large paddock and a recent housing development. Access to the highway would be via an existing long track which runs around the edge of the paddock. A mature hedgerow runs either side of the access close to the highway edge.
4. There is no dispute between the parties that the proposal to convert the building to residential use meets the requirements of paragraph Q.1 of the GPDO. I have no reason to disagree and therefore consider that the proposal constitutes permitted development under Class Q, subject to the prior approval of certain matters. These matters are listed in paragraph Q.2.(1) and include criterion (e): whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses). Criterion (a) transport and highways impacts of the development is also relevant in this case but no concerns are raised in respect of the other listed prior approval matters.

5. 'Impractical' or 'undesirable' are not defined in the regulations. However, the Planning Practice Guidance (PPG) sets out that local planning authorities should apply a reasonable ordinary dictionary meaning in making any judgment and advises that 'impractical' reflects that the location and siting would not be 'sensible or realistic'; and 'undesirable' reflects that it would be 'harmful or objectionable'.
6. Although not clearly stated in this way on the decision notice, the Council has effectively determined that prior approval under criterion (e) was necessary, and that it was refused, because the development would harm the character of the area due to the removal or translocation of the roadside hedgerow.
7. When considering the highway impact of the proposal the highway authority advised that visibility from the existing access is restricted. However, improvements by way of the provision of visibility splays would result in safe access to the highway. The appellant has proposed visibility splays that satisfy the highway authority requirements and therefore in this respect the prior approval could be granted.
8. Nevertheless, in order to provide the necessary improvements to the access over 100 metres of hedgerow would need to be removed. The appellant considers that the hedgerow would not be removed but would be 'translocated'. Or if this action failed then replanting could be undertaken. In either scenario the appellant contends that the hedge line would not be lost.
9. The hedgerow forms a close boundary with the highway and is an attractive feature as a result of the variety, height and density of plant species within it. It lies on a slight bank above the road and there is a parallel hedgerow opposite. It makes a positive contribution to the rural character of the area. The translocation or replacement of such a significant section of hedgerow back from the roadside and at an angle from, rather than parallel to, the road would upset the pattern and rhythm of the field boundaries to the detriment of the character and appearance of the area.
10. In addition to the visual impact, there is disagreement between the parties whether or not the hedgerow constitutes an 'important' hedgerow for the purposes of the Hedgerow Regulations 1997 (the Regulations). The Council considers that the hedgerow is 'important' under the Regulations and that its removal could not be completely mitigated for by replanting as its importance relates to the hedgerow's historical line. To support their proposal the appellant submitted at application stage a Landscape and Hedgerow Assessment (LHA) which concluded that the hedgerow is not an 'important' hedgerow, but acknowledged that it qualifies as a Priority Habitat under the Natural Environment and Rural Communities Act 2006 (NERC) section 41 Habitats of Principle Importance.
11. Despite the stated conclusion, the LHA at paragraph 4.5.8 indicates that criterion 5 of Part II of Schedule 1 of the Regulations is met because the location of the hedgerow is part of a field system predating the Enclosure Acts. The report also confirms that the hedgerow is over 30 years old. Regulation 4 provides that a hedgerow is important if it has existed for 30 years or more and if it satisfies at least one of the criteria listed. Further, the author of the LHA advises that the assessment was undertaken outside the optimal recommended months for such surveys.

12. These matters lead me to conclude, in the absence of substantive contradictory evidence, that the hedgerow is likely to be protected by the Regulations and such protected status raises a presumption in favour of its retention. On this basis, and in addition to the negative visual impact of the removal and or translocation of the hedgerow, I consider that the development would be both impractical and undesirable.
13. Further, without the removal or translocation of the hedgerow I consider that the development would result in unacceptable impact on highway safety due to unsatisfactory visibility from the access. I acknowledge that the access is existing and that the appellant considers a residential use would reduce the number of access and egress movements generated. However, these matters do not outweigh the harm that I have identified.
14. The appellant has advanced that refusal of the proposal would sterilise the site and future productive adaptation and re-use. However, I am only able to make a decision on the basis of the criteria set out under Schedule 2, Part 3, Class Q of the GPDO and I do not therefore consider these matters further.
15. I conclude that the location of the building makes it impractical and undesirable to change from agricultural use to a use falling within Class C3 (dwellinghouses) with particular regard to the effect on the hedgerow and highway safety.

Conclusion

16. For the above reasons the appeal is dismissed.

S Tudhope
Inspector