



Appeal Decision

Site visit made on 4 August 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

Appeal Ref: APP/Y2810/W/20/3253580

14 Staffords Lane, West Haddon, Northampton NN6 7AT

- 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 11 Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by New Malton Golf Club Ltd against the decision of Daventry District Council.
 - The application Ref DA/2020/0152, dated 19 February 2020, was refused by notice dated 11 March 2020.
 - The development proposed is the demolition of dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would be 'permitted development'.

Reasons

3. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) gives 'permitted development' rights for the demolition of buildings¹ subject to a prior approval process and various conditions. This means that certain demolition works do not require planning permission.
4. However, one of the exclusions to this permitted development right² is that if the demolition is "relevant demolition" for the purposes of section 196D of the Act (which includes the demolition of an unlisted building located within a conservation area).
5. The application to demolish the appeal dwelling was submitted to the Council on 19 February 2020 and the relevant fee paid. The Council have also provided evidence to indicate that the fee had been paid to the Planning Portal in an e-mail received in the afternoon of 20 February. I note that Paragraph B.2 (b) (ii) of the GPDO sets out the conditions which development is permitted by Class B and this includes "any fee required to be paid".

¹ At Schedule 2 Part 11 Class B

² Paragraph B.1 (b)

6. Taking this into account, it is clear to me that the relevant fee had been paid at that time. I also find it significant that the Council considered the application to be valid on 20 February³.
7. From the evidence before me, the Council formally designated the West Haddon Conservation Area (WHCA) on the evening of 20 February. This means that the application had been submitted and the relevant fee paid prior to the designation of the WHCA.
8. That said, determining bodies must make their decision on the basis of the legal and policy framework in force at the time of their decision, as opposed to the date of the application.
9. To that end, at the time the Council determined the application the appeal site was located within the WHCA and this is still the case today. Therefore, the proposal would be 'relevant demolition' and applying the criteria in the GPDO, the proposal cannot be permitted development. Therefore, to undertake such demolition works would require a planning application to be submitted to the Council for determination.
10. I have had regard to the Appellants detailed comments in relation to the legality of the designation of the WHCA. However, this is not a matter for me to consider in the context of an appeal under section 78 of the Act as any such challenge to such a designation must be considered through an alternative process. That said, the Council has confirmed that the time period for such a challenge has now expired and therefore the designation of the WHCA remains.

Conclusion

11. Taking all matters into consideration, I conclude that the appeal must be dismissed.

Chris Forrett

INSPECTOR

³ From the Councils decision notice of the 11 March 2020