
Appeal Decisions

Site visit made on 11 August 2020

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 18 September 2020

Appeal Ref A: APP/X3540/W/20/3251883

Plot 1, Woodhall Farm, Saxtead, Woodbridge IP13 9QA

- 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 GPDO).
 - The appeal is made by Mr & Mrs Peter Anderson against the decision of East Suffolk Council.
 - The application Ref DC/20/0213/PN3, dated 31 January 2019, was refused by notice dated 25 March 2020.
 - The development proposed is a Prior Notification to convert to a dwelling.
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Appeal Ref B: APP/X3540/W/20/3252967

Plot 2, Woodhall Farm, Saxtead, Woodbridge IP13 9QA

- 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 Mr & Mrs Peter Anderson against the decision of East Suffolk Council.
 - The application Ref DC/20/0395/PN3, dated 30 January 2019, was refused by notice dated 25 March 2020.
 - The development proposed is a Prior Notification to convert to a dwelling.
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Appeal Ref C: APP/X3540/W/20/3252980

Plot 3, Woodhall Farm, Saxtead, Woodbridge IP13 9QA

- 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 Mr & Mrs Peter Anderson against the decision of East Suffolk Council.
 - The application Ref DC/20/0396/PN3, dated 30 January 2019, was refused by notice dated 25 March 2020.
 - The development proposed is a Prior Notification to convert to 2 dwellings.
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Decisions

1. Appeals B and C are dismissed.
2. Appeal A is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class Q (a) and Q (b) for the conversion of an agricultural building to a single residential dwelling at Plot 1, Woodhall Farm, Saxtead, Woodbridge IP13 9QA in accordance with the terms of the application Ref DC/20/0213/PN3, dated 31 January 2019. This approval is subject to the condition that the

development must be complete within a period of 3 years starting with the prior approval date in accordance with Paragraph Q.2(3) of the GPDO and subject to the conditions set out in the schedule to this decision.

Procedural Matters

3. As set out above there are three appeals which relate to different buildings at Woodhall Farm. All three applications were refused for identical reasons relating to, firstly, a lack of information in regard to the requirements of Class Q and, secondly, the effect on nearby habitat sites. Although I have considered each proposal on its individual merits, to avoid duplication, I have dealt with all three appeals in the same decision letter.
4. In the interests of clarity and consistency I have amended the descriptions of the development from those provided on the Application and Appeal Forms.
5. Based on all three sites lying outside the Zone of Influence, the Council no longer contests the second reasons for refusal relating to the effects on nearby habitat sites.

Main Issue

6. The main issue in each case is whether or not the proposed changes of use would be permitted development under the provisions of Part 3, Class Q of Schedule 2 to the GPDO.

Reasons

7. There are a number of redundant, portal framed agricultural buildings that comprise Woodhall Farm, a remote farmstead between Saxtead and Framlingham. Plot 1 is a large double-storey barn located at the eastern end of the farm complex. Although vacant at the time of my visit it was previously used for the storage of hay and farm machinery. The application in Appeal A seeks to convert the building to a 5-bedroom house covering approximately 457m².
8. Plots 2 and 3 are located to the western end of the site and comprise two, single-storey, pig barns. It is proposed to convert Plot 2 to a 3-bedroom bungalow with a floor area of approximately 100m². Plot 3 would be converted into two separate bungalows each with a floor area of 100m². The site plan shows that all the other existing buildings would be removed.
9. the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 amended Class Q so as to permit (a) the change of use; or (b) the change of use and building operations that are reasonably necessary for the conversion. The permitted development right is subject to a number of limitations set out in Paragraph Q.1. According to the Decision Notices, the Council considered that the conversions are not permitted by Class Q because the requirements of Q.1(a), (e) and (f) were not satisfied
10. Dealing with the issues in the order they appear on the Council's Decision Notices, paragraph Q.1(a) states that development is not permitted by Class Q if the site was not used solely for an agricultural use as part of an established agricultural unit on 20 March 2013 or when last in use, or – if brought into use after 20 March 2013 – for a period of at least ten years before the date that development under Class Q begins.

11. The information contained in the Appellants' Appeal Statements, confirms that the site was in agricultural use prior to 20 March 2013 and has remained so since that time despite some buildings standing vacant and unused. My own observations support the above. The Council has not brought forward any credible evidence which would lead me to conclude that the requirements of Q.1(a) are not met.
12. Paragraphs Q.1(e) and (f) state that development is not permitted by Class Q if the site is occupied under an agricultural tenancy or an agricultural tenancy has been terminated less than one year before the date development begins. The Appellants have confirmed that the buildings have not been in an agricultural tenancy since 2008. Accordingly, the requirements Q.1(e) and (f) are satisfied.
13. Paragraph Q.1(i) states that development Class Q(b) is not permitted if the development would consist of building operations other than; the installation or replacement of windows, doors, roofs, or exterior walls, or utility services to the extent reasonably necessary for the building to function as a dwellinghouse and partial demolition to the extent reasonably necessary to carry out the above building operations.
14. The Council argue that a significant amount of demolition will be required to Plots 2 and 3 to ensure the floorspace limits set out in paragraph Q.1 (b)-(d) are adhered to. Essentially The 2018 amendment to the GPDO has introduced the terms "*larger*" and "*smaller dwellinghouses*" which are defined in a new paragraph Q.3. The Ministry of Housing, Communities and Local Government's April 2018 Planning Update Newsletter indicates that the Class Q PD right now: '*allows only for: up to 3 larger homes within an overall floor space of 465 square metres; or up to 5 smaller homes each no larger than 100 square metres; or a mixture of both providing that no more than 3 larger homes are delivered within a maximum total of 5 homes.*'
15. In this case the site plan shows that four units would be provided. Plot 1 would be the only *larger* dwellinghouse with a floor area of 457m². Three *smaller* dwellinghouses would be provided within Plots 2 and 3, each with a floor area of 100m². These floor areas and the number of dwellings are compliant with the limits set out in Q.1 (b)-(d).
16. In terms of the demolition with which the Council is concerned, the Appellants point out that the "*demolition relates to other buildings on the site not to the subject buildings*". However, that statement is patently at odds with the information provided with the applications. The existing block plan shows that the floor area of Plot 1 is 316m², Plot 2 - 174m² and Plot 3 - 249m². Whilst the increase to Plot 1 arises from the creation of a new upper floor, there would be 74m² and 49m² of demolition to Plots 2 and 3 respectively. The Appellants state that only a minor amount of demolition is required to Plot 2 but no further details have been provided.
17. Referring back to paragraph Q.1(i), the proposed partial demolition to Plot 2 and 3 would appear to sit outside the list of specified works. I have noted the Appellants view that the required demolition would not constitute 'development' under Section 55 of the Town and Country Planning Act 1990 and could therefore be undertaken at any time. Whilst that maybe so, if the buildings were altered in such a way, this might well bring the scheme into conflict with the requirements of Q.1(g).

18. My conclusion on this matter, is that the partial demolition in respect of Plots 2 and 3 would fall outside those works specified under Class Q. Based on the existing and proposed floor areas provided by the Appellants, and the lack of information regarding exactly how the buildings would be reduced in size, I do not consider the amount of demolition could reasonably be described as 'minor'. Plots 2 and 3 therefore fail to meet the requirements of Class Q.
19. Given that the circumstances of Plot 1 are different to Plots 2 and 3, I have considered whether it would be possible to allow that appeal. The Council state that Plot 1 cannot be considered in isolation. However, I am not sure I follow that argument since three separate appeals have been submitted and I am required to assess each on its individual merits. As there is no dispute from the Council that Plot 1 meets the relevant requirements in Q1(a)-(m), it is necessary to consider Paragraph Q.2(1) which lists conditions under which the developer must apply to the local planning authority for a determination as to whether prior approval will be required regarding the impact of the development on: (a) transport and highways; (b) noise; (c) contamination; (d) flooding risks; (e) whether the location or siting of the building would make it otherwise impractical or undesirable for the building to be used as a dwellinghouse; and (f) the design or external appearance of the building.
20. The Council's Decision Notice for Plot 1 refers to conditions (e) and (f). With regard to the former, the Council allege that the building lies within an agricultural field surrounded by the existing farmhouse and other farm buildings. The first point to make is that the building is not located in an agricultural field. Rather it is located on the edge of a farmstead flanked by fields on its northern and eastern boundaries. I can see nothing unusual in that.
21. The argument that the removal of the other redundant buildings on the site would result in a sense of isolation thus making it undesirable for habitation, is a poor one. The very thing that is likely to attract prospective purchasers to the dwelling would be its remote, bucolic setting. The existing farmhouse would in any event be located a short distance to the south.
22. It was held in the East Hertfordshire case¹ that the National Planning Policy Framework needs to be applied as specified by the GPDO and in the context of what the particular Class seeks to achieve. That an agricultural building is in a location where permission would not normally be granted for, say, accessibility reasons is not a sufficient reason for refusing prior approval. This is reflected in the Planning Practice Guidance which makes clear that the Class Q right does not apply a test on – or the prior approval matters do not relate to sustainability of location². In light of the above, the fact that Plot 1 relates poorly to existing settlements, is not a matter that carries any weight in my decision.
23. The submitted elevations show the creation of new windows and openings, something which would be entirely consistent with expectations in Class Q1(i). I do not find that the number or size of new openings to be excessive or out of character. Given there would be no overall change to the dimensions of the building, I do not accept that the dwelling would be any more prominent than

¹ East Hertfordshire DC v SSCLG [2017] EWHC 465 (Admin)

² ID Refs: 13-104-20150305 to 13-109-20150305

the existing building. I am thus satisfied that conditions (e) and (f) of paragraph Q.2(1) are met.

24. In terms of its structural integrity, the submitted survey notes that the building is in excellent condition and no repairs are required. The structure is capable of transferring the proposed loads. The walls would be extended with blockwork to the roof with insulation provided internally. The concrete floors and foundations are also said to be in excellent condition and capable of taking the proposed loads. The exact structural calculations would be a matter to be resolved through the Building Regulations regime. No substantial evidence has been adduced by the Council which would lead me to doubt the findings of the Appellants' structural survey. I am therefore satisfied that the building is structurally sound and capable of conversion without additional works.

Other Matters

25. I note objections have been raised by the Council's Public Rights of Way team. However, these relate to the conversion of Plots 2 and 3 rather than Plot 1. In any event, issues pertaining to Public Footpath 9 would be dealt with via other legislation namely section 257 of the Town and Country Planning Act.

Conclusion

26. The proposed conversion of Plots 2 and 3 would not satisfy the requirements of Schedule 2 Part 3 Class Q of the GPDO and therefore is not development permitted by it. The conversion of Plot 1 would satisfy the relevant requirements of Class Q and is therefore development permitted by it.
27. For the reasons given above and having considered all other matters raised, Appeals B and C are dismissed and Appeal A is allowed.

Conditions

28. In addition to the standard condition required by the provision of Class Q in relation to the time limit for development, the Council have requested conditions specifying that the development is carried out in accordance with the submitted plans. Details of materials, and boundary treatments are necessary to safeguard the rural character of the area. I have imposed an ecology condition to protect any ecological assets that might be present. A condition regarding the parking and turning areas is necessary in the interests of highway safety.
29. No less than five separate contaminated land conditions have been recommended by the Council despite the submission of a Phase 1 contaminated land report with the application. To avoid repetition and to ensure the conditions are commensurate to the proposed development, I have replaced the suggested conditions with the Inspectorate's model contaminated land conditions.
30. The Framework and PPG advise that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. No such justification has been provided in this instance and accordingly I do not consider this condition would pass the test of necessity. Given the size of the proposed dwelling and its location, I do not consider it necessary to impose conditions relating to cycle parking and bin storage.

D. M. Young

Inspector

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: "Proposed Elevations and Plan Layout" received on the 20/02/2020 and "Site Location Plan" and "Proposed Plot Layout" received 20/01/2020.
- 2) The materials and finishes shall be as indicated on the approved plans and thereafter retained as such, unless otherwise agreed by the Local Planning Authority.
- 3) Prior to the occupation of the hereby approved dwelling, details of the curtilage and means of enclosure thereto shall be submitted to and approved by the Local Planning Authority. The approved means of enclosure shall thereafter be retained in their approved form
- 4) The development must be undertaken in accordance with the ecological avoidance, mitigation, compensation and enhancement measures identified within the Preliminary Ecological Appraisal (PEA) report (Bright Green, April 2019).
- 5) The use shall not commence until the areas within the site shown on Drawing Ref. 'Proposed Plot Layout' for the purposes of manoeuvring and parking of vehicles has been provided and thereafter that areas shall be retained and used for no other purposes.
- 6) No development shall commence until an intrusive assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site and its potential risks to human health.
- 7) No development shall take place where (following the intrusive assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out [and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority] before the development [or relevant phase of development] is occupied.