
Appeal Decision

Site visit made on 26 January 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 March 2021

Appeal Ref: APP/E2001/W/20/3263066

Land on the north west side of Queen Street, Driffield YO25 6QJ

- 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 PA of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Queen Street Homes (Ulllyotts) against the decision of East Riding of Yorkshire Council.
 - The application Ref 20/01877/LINOT, dated 16 June 2020, was refused by notice dated 12 August 2020.
 - The development proposed is described on the application form as 'The conversion to C3 of a B1 (c) building'. (sic)
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Class PA of schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.
3. The Council, in determining the application, seems to have been satisfied that, the proposal would meet the permitted development criteria specified by paragraph PA.1 (a) and paragraphs PA.1 (c) to PA.1 (i) with the reason for refusal set out within the decision notice only referring to the failure of the proposal to comply with paragraph PA.1 (b).
4. Schedule 2, Part 3, Paragraph W of The Town and Country Planning (General Permitted Development) (England) Order 2015¹ (GPDO) sets out the prior approval process. It states² that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval.

¹ SI 2015 No. 596

² Paragraph W. (3)

Main Issues

5. In the context of the above the main issues are:

- whether the proposal would be permitted development under Schedule 2, Part 3, Class PA of the GPDO; and
- if so, whether prior approval would be required in accordance with the conditions set out in Paragraph PA.2 (1) of the GPDO.

Reasons

Whether permitted development

6. Schedule 2, Part 3, Class PA of the GPDO (as amended) permits development consisting of the change of use of a building and any land within its curtilage from a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.
7. Article 2(1) (a) of the GPDO defines a building stating that it includes any structure or erection including any part of a building. The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018³ amended Article 2(1)(a) of the GPDO so that the definition of a "building" for the purposes of Class PA excluded "any part of a building".
8. The Council's reason for refusal is that the proposal fails to comply with Paragraph PA.1 (b) of the GPDO, which states that development is not permitted by class PA if the building was not used solely for a light industrial use on 19th March 2014 or, in the case of a building which was in use before that date but was not in use on that date, when it was last in use.
9. Demolition works were undertaken in 2019 (Ref 19/00522/DEMOL) for '*the partial demolition of existing warehouse building and derelict houses along with the partial removal of existing façade and roof of existing structure*'. There is a difference of opinion between the two main parties with respect to the extent of work undertaken on the building subject to the appeal after this demolition work was completed.
10. Notwithstanding this difference of opinion, it is clear from the evidence before me that the building subject to this appeal did, prior to 2019 form part of a much larger building alongside the part of it that was demolished as evidenced by the demolition notice plan as shown by appendix 4 of the Council's statement which is annotated with '*demolish part of existing building*'. Furthermore, the description on the Section 81 demolition notice includes the wording '*Partial demolition of existing warehouse building*'. Furthermore, according to the appellant's statement the façade, roof covering, and panelling were removed from the property subject to this appeal and then replaced.
11. Consequently, what remained after the demolition works was 'part of a building' and therefore ceased to be a building as defined by the GPDO for permitted development under class PA at that time. Accordingly, it could not in itself be considered a building under class PA until the other works to install its new roof covering, panelling and façade were completed to make it so. I therefore find that for the purposes of assessing permitted development under

³ SI 2018 No. 343

class PA, the appeal building is in effect a new building which was not used solely for a light industrial use on 19th March 2014 or, in the case of a building which was in use before that date but was not in use on that date, when it was last in use.

12. I note the appellant's point that the work undertaken on the building was repair and renovation work only and not substantial in nature. However, even if this was the case, it would not overcome the fact that the appeal property was not a building for the purposes of permitted development under class PA from when the demolition work had finished to when these repair or renovation works had been completed.
13. I also note the appellant's view that there were two adjoining buildings on the appeal site prior to 2019. However, according to their statement they were separated by an internal wall which has now become the external wall of the appeal building. In any event, even if this was so, the fact that only a part of it remained after the demolition works (due to the removal of its façade and roof covering) means that it could not have been a building for the purposes of permitted development under class PA until the works to install its new roof covering, cladding and external 'skinned' brickwork had been completed which was after the 19th March 2014.
14. Accordingly, I conclude that the proposal would not accord with Paragraph PA. 1 (b) of the GPDO and is therefore not permitted development.

Whether prior approval required

15. Given my conclusion that the proposal is not development permitted under Class PA of the GPDO, there is no need for me to consider whether or not prior approval would be required, as it would not alter the outcome of the appeal.

Conclusion

16. For the reasons given and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class PA of the GPDO.
17. Consequently, it is development for which an application for planning permission would be required. This would be a matter for the local planning authority to consider in the first instance and cannot be addressed through prior approval provisions set out under paragraph PA.1 (b) of the GPDO.
18. The appeal is, therefore, dismissed.

C Coyne

INSPECTOR