



Appeal Decision

Site visit made on 15 November 2022

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Appeal Ref: APP/Y2620/W/22/3297965

Annex of Wishing Well House, The Street, Happisburgh, Norwich NR12 0AB

- 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 20, Class AD of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr David Pugh against the decision of North Norfolk District Council.
 - The application Ref PU/22/0019, dated 29 December 2021, was refused by notice dated 2 March 2022.
 - The development proposed is change of use from a detached additional living accommodation in conjunction with main dwelling house The Wishing Well to a separate detached dwelling house with its own parking and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. This appeal is being considered concurrently with another appeal¹ at this site relating to a refusal to grant planning permission for the development proposed. However, the cases are not linked, and the legislative framework for consideration of each differs. Accordingly, I have considered each separately and on its merits.
3. The description of the proposed development as set out on the application form includes justification for the proposal. Although I have taken the provided information into account in reaching my decision, in the interests of clarity and brevity, I have removed this from the description of the development.

Main Issue

4. The main issue is whether the proposal would constitute permitted development under Schedule 2, Part 20, Class AD of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).

Reasons

5. Schedule 2, Part 20, Class AD of the GPDO grants planning permission for development consisting of works for the construction of new dwellinghouses immediately above the topmost storey on a detached building in use as a single dwellinghouse, subject to restrictions on the number of additional storeys to be built. In addition, Paragraph AD.1(n) of Part 20 places restrictions on the

¹ APP/Y2620/W/22/3303744

- development that can be undertaken, and states that development is not permitted by Class AD where it is located within article 2(3) land.
6. The site lies entirely within Happisburgh Conservation Area and is therefore located within article 2(3) land. As a result, the proposed development cannot benefit from the provisions of Class AD.
 7. Furthermore, the appeal proposal would not involve the construction of a new dwellinghouse immediately above the topmost storey on a detached building. Rather, it would comprise the formation of an additional separate dwelling within an existing detached building, and no construction work is proposed. Accordingly, it would not fall within the scope of Schedule 2, Part 20, Class AD of the GPDO in any event.
 8. Therefore, the proposed development would not constitute permitted development under Schedule 2, Part 20, Class AD of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Other Matters

9. There appears to be dispute as to the current use of the existing building, whether the current use is lawful, whether the proposal would amount to development at all, or whether the Council issued a decision within the required time period. However, as I have found that the proposed development could not benefit from Class AD permitted development rights in any case, these matters are not determinative in my decision, and I have not considered them further.
10. The criteria set out in the GPDO that are required to be met in order for the proposal to constitute permitted development are specific and limited, and other matters cannot be taken into consideration. Accordingly, even if the proposed development would boost housing supply and mix, provide adequate quality of accommodation, have a neutral effect on the character and appearance of the CA, reflect other structures in the area or have only a neutral impact upon the living conditions of occupiers of neighbouring properties, these are not matters to which I can afford weight.
11. Equally, I cannot take account of the degree to which the proposed development would accord with national and local planning policies, the fact that part of the CA has been lost to the sea, or the merits of other examples of developments in the local area. Additionally, I cannot afford weight to the appellant's evident frustration with the conduct of Council, or the appellant's suggested condition in relation to a boundary wall.
12. I have had due regard to the personal circumstances of the appellant and their family. However, in this case, as the specific criteria set out in the GPDO have not been met, I am unable to allow the appeal. Whilst I am sympathetic to the personal circumstances that have been set out, they cannot be attributed weight within this procedure.
13. I am aware that the site lies within the zone of influence of The Broads Special Area of Conservation (SAC) and Ramsar site, Broadland Ramsar site, Broadland SPA, Norfolk Valley Fens SAC, Great Yarmouth North Denes SPA, Breydon Water SPA, Winterton-Horsey Dunes SAC, North Norfolk Coast Ramsar site, SAC and SPA, The Wash and Norfolk Coast Sac, and The Wash Ramsar site and SPA, and could therefore affect a European protected habitat.

14. Article 3(1) of the GPDO states that planning permission is granted subject to the provisions of regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 ('the Regulations'). This means that permitted development which would affect a European protected habitat cannot begin until an application has made to the Local Planning Authority (LPA) under Regulation 77, and the LPA has confirmed that it is satisfied that the development would have no adverse effect on the integrity of the habitat.
15. Whilst it does not appear that a Regulation 77 application has been made in this case, as I have concluded that proposed development would not constitute permitted development in any case, it is not necessary for me to consider this particular issue further.

Conclusion

16. For the reasons given above, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR