



Appeal Decision

Site visit made on 25 May 2023

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2023

Appeal Ref: APP/Z2260/W/21/3289268

100 Grange Road, Ramsgate CT11 9PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Thomas against the decision of Thanet District Council.
 - The application Ref PN06/TH/21/1218, dated 29 July 2021, was refused by notice dated 24 September 2021.
 - The development proposed is conversion of the entire building from existing offices to five dwellings (2x studios, 1x one bed and 2x two bed).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for conversion of the entire building from existing offices to five dwellings (2x studios, 1x one bed and 2 two bed) at 100 Grange Road, Ramsgate CT11 9PX, in accordance with the application ref PN06/TH/21/1218 made on 29 July 2021, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 3, Class O, paragraph O.2 and subject to the following condition:
 - 1) If, during development, significant contamination is found or caused at the site, then this contamination shall be fully assessed and an appropriate remediation scheme including timetable shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Procedural Matters and Main Issue

2. A Unilateral Undertaking has been submitted with the appeal, dated 21 September 2021 (the UU). I have taken this into account in my consideration of the appeal.
3. Under Article 3(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule, subject to limitations and conditions.
4. The Council do not dispute that the proposal meets the criteria set out at paragraph O.1 and as such it would constitute permitted development, subject to the conditions set out. Paragraph O.2 requires that, before beginning the

development, the developer must apply to the local planning authority for a determination as to whether prior approval will be required in respect of various matters listed. The Council have not identified any adverse effects in relation to those matters, subject to the imposition of a condition discussed below.

5. Notwithstanding this, Article 3(1) of the GPDO grants planning permission for classes of development as set out in Schedule 2 subject to Regulations 75-78 of the Conservation of Habitats and Species Regulations 2017. This provides that it is a condition of any planning permission granted by the GPDO that development which is a) likely to have a significant effect on a European site or offshore marine site, alone or in combination with other plans or projects and b) not directly connected with or necessary to the management of the site, must not begin until the developer has received written notification of the approval of the local planning authority under Regulation 77.
6. The dispute between the main parties relates to this matter. Consequently, the main issue is the effect of the proposed development on the Thanet Coast and Sandwich Bay Special Protection Area (SPA) and Ramsar site, with particular regard to the ability of the UU to secure appropriate mitigation.

Reasons

7. The appeal site lies within the zone of influence for the Thanet Coast and Sandwich Bay SPA and Ramsar site. The SPA is used by a large number of migratory birds and supports populations of Turnstone, European Golden Plover and Little Tern which are of European importance. The conservation objectives for the SPA include ensuring that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive. Threats and pressures to the SPA have been identified as including outdoor sports, leisure and recreational activities.
8. The proposal is not directly connected with or necessary to site management for nature conservation. The proposal would result in additional permanent homes, with the associated increase in residents near to the protected site. This is likely to lead to an increase in access to and recreational use of the SPA. Adopting a precautionary approach, new residential developments within this zone are likely to have a significant effect upon the qualifying features of the site, when considered either alone or in combination.
9. The additional population generated by the proposal may access the SPA for recreational purposes. The Council report evidence that supports recreational activity causing the disturbance of birds, in particular walking with dogs, predominately in the intertidal area, close to roosts at high tide. Disturbance can also occur through human activity such as noise, light, sound and vibration. Such disturbance may substantially alter bird behaviour and consequently affect the long-term viability of the population. As such, given the additional housing proposed, it cannot be ascertained that the proposal would not adversely affect the integrity of the site.
10. The Council have a strategic approach to mitigation in the form of a Strategic Access, Management and Monitoring Plan (SAMM) which would deliver measures to mitigate the effects of the development. This includes ongoing monitoring and surveys of the site, wardening, signage and increased education. The SAMM adopts a per-dwelling tariff calculated using the cost of

delivering the mitigation measures in-perpetuity and the planned number of additional homes in the District. Natural England support this approach and I have no reason to doubt that this approach would avoid an adverse effect on the integrity of the site.

11. The UU would secure a financial contribution of £1246 towards the necessary mitigation and the Council do not contest the contents of the UU itself. The matter of dispute relates to the ownership of the appeal site, given it was sold during the course of the application.
12. Since the Council's decision, the appellant has provided more recent evidence relating to the ownership of the appeal site. This includes a letter of 14 January 2022, confirming the completion of a Land Registry application dated 7 September 2021, and a copy of the associated title deed dated 14 January 2022. This identifies the owner as Thomas Estates LLP who were a signatory of the UU. In light of this information, and in the absence of evidence to the contrary, I have no reason to believe the UU would not be effective for the purposes of securing the mitigation. The proposal would comply with the objectives of the National Planning Policy Framework in respect of Habitat sites.
13. I note that a Regulation 77 application may be submitted and approved after prior approval is given for the development and that Article 3(1) effectively imposes a pre-commencement condition on all development permitted by the GPDO which would affect a European protected habitat. In any event, for the above reasons, I consider there is adequate evidence that the required mitigation would be secured. As such, I am satisfied that the proposal would not adversely affect the integrity of the site.

Other Matters

14. I note the concerns of a third party regarding the construction process including dust emissions, noise and site safety. However, under the provisions of the GPDO my considerations are limited to those matters specified. However, other legislation to assist with these matters should they occur.

Conditions

15. Paragraph W(13) of Part 3 of the GPDO sets out that prior approval may be granted subject to conditions reasonably related to the subject matter of the prior approval. I have imposed a condition relating to land contamination, as suggested by the Environmental Health Officer. This is one of the matters included in the prior approval requirements and is necessary in light of previous remedial works in the area.
16. As the relevant part of the GPDO imposes a condition relating to the time limit for implementation, it is not necessary for such a condition to be repeated here.

Conclusion

17. For the reasons given, the appeal is allowed and prior approval is granted subject to the condition above.

C Shearing

INSPECTOR