



Appeal Decision

Site visit made on 6 June 2023

By C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2023

Appeal Ref: APP/P2935/W/23/3315318

**Agricultural building south of Waterside Cottage, Acklington,
Northumberland NE65 9AU**

- 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 (as amended).
- The appeal is made by Guyzance Hall Estate Ltd against the decision of Northumberland County Council.
- The application Ref 22/03609/AGTRES, dated 30 September 2022, was refused by notice dated 6 December 2022.
- The development proposed is described as an application to determine if prior approval is required for a proposed change of use of agricultural building to dwelling house (Use Class C3) and for building operations reasonably necessary for the conversion.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been submitted by the appellant against Northumberland County Council in respect to the appeal. This is the subject of a separate Decision.

Preliminary Matters

3. The description of development contained in the heading above is that cited by the appellant on the original application form as there is no evidence before me that it was formally modified by mutual agreement.
4. Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GPDO") states that development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Class Order; and building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule are permitted development unless the relevant requirements listed in Q.1 and conditions listed in Q.2 are met.
5. The Council has not argued that the proposal fails to meet all of the terms of Q.1 of the GPDO. I have no cause to find otherwise. The dispute relates solely to condition Q.2 (1) e, namely whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from

agricultural use to a use falling within Class C3 (dwellinghouses) and from the evidence before me that forms the basis of my own assessment.

6. The submitted plans show improvements to the existing vehicular and pedestrian access track which serves the appeal property. That proposal is not a building operation reasonably necessary to convert the building and falls beyond the appeal site boundary. Consequently, it falls beyond the scope of my determination of this appeal.
7. The provisions of the GPDO do not permit works which have already been undertaken. Therefore, my determination does not extend to the existing package treatment plant whose lawfulness is disputed.
8. Furthermore, the assessment of the effect on the Northumberland Coast Special Protection Area and Ramsar site and the North Northumberland Dunes Special Area of Conservation would fall to a separate application procedure under Regulation 77 of the Conservation of Habitats and Species Regulations 2017 had the appeal succeeded. Therefore, the submitted Unilateral Undertaking has no bearing on my assessment of this appeal.
9. The provisions of the Prior Approval procedure do not require me to make an assessment against the development plan.

Main Issue

10. The main issue for this appeal is whether the location of the appeal proposal is practical and desirable, with particular regard to the integrity of the Acton Dene Ancient Woodland ("the ADAW") and the River Coquet and Woodland Site of Special Scientific Interest ("the SSSI").

Reasons

Practicality and desirability of location

11. The appeal site comprises an aged stone built former cow byre and walled front yard. It occupies a secluded position within the wider historic Guyzance country estate. The appeal site is experienced as part of a woodland clearing due to the host building's particular location relative to the surrounding tree and ground cover.
12. There is common ground that the red line boundary for the appeal site does not cover the designated the ADAW. The Council maintains that the appeal site immediately bounds that designation. However, the appellant has disputed the validity of Natural England's Ancient Woodland Inventory in terms of the precise boundaries of the ADAW. This very well established woodland forms much of the appeal site's immediate surrounding context. The Mere Burn, a watercourse which feeds into the SSSI is located within close proximity to the rear of the appeal building. These important environmental assets provide a particularly sensitive context to the appeal site.
13. The appeal property is remote from mains sewerage systems. It is therefore proposed that foul sewerage would be dealt with via an existing package treatment plant which serves other property and would feed into a proposed tertiary treatment system which would be located between the rear of the appeal property and the Burn. From my site inspection and the submitted

mapping it is reasonable to conclude that the proposed drainage works would fall within the ADAW boundaries.

Effect on the ADAW

14. From my site inspection I discerned that the necessary drainage facilities fall within this ancient woodland and, when taken as a whole, the appeal proposal would not meet the 15-metre buffer specified by Natural England.
15. There has been a loss of some tree cover within the vicinity of the appeal building through recent storm damage. This has led to some change to the integrity of the woodland. Significantly however, the important credentials of an ancient woodland extend beyond its trees, to its soils and ground cover which support its ecosystems. In addition to its trees, the ADAW's existing fungal communities and seedbank in its soils, its ground flora, the invertebrate, plant and fungal communities associated with dead wood are all very important elements of this resource.
16. The appellant's Arboricultural Impact Assessment (v1) finds no material impact on existing root protection zones. Nonetheless, the proposed drainage component of the proposal falling beyond the footprint of the building and associated yard represent physical encroachment into and loss of part of the ADAW, ground disturbance and compaction of soils associated with its installation.
17. Paragraph 180 of the National Planning Policy Framework states that development resulting in the loss or deterioration of irreplaceable habitats such as ancient woodland and ancient or veteran trees should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists.
18. The pending byway status of the access track is the subject of a separate process and, as such, it carries no weight. I attribute very limited weight to the proposal's role in the implementation of the wider Estate regeneration strategy in the absence of any planning status or mechanism available to link the appeal proposal to it. I accept that the appeal proposal would have scope to secure the longevity of the appeal building, a non-designated heritage asset, to which I give moderate favourable weight. The appeal proposal could also make a very limited contribute to the area's supply of housing. However, there is no evidence of an existing shortfall and so this carries limited favourable weight.
19. Crucially, ancient woodland is an irreplaceable habitat. In this case there is potential for an adverse impact. Furthermore, having regard to these benefits the reason for this has not been demonstrated by the appellant to be wholly exceptional. The provision of additional woodland elsewhere and the implementation of a Woodland Management Plan are insufficient to compensate for the particular geographically specific harm that could arise.
20. In view of the identified harm to the ADAW arising, and the conflict with the national approach to such irreplaceable habitat, condition Q.2 (1) e of Class Q of the GPDO has not been satisfactorily addressed through the appeal scheme.

Effect on the SSSI

21. The proposed drainage solution proposed would be located to the rear of the appeal property further into the ADAW. The appellant has confirmed that the

system would discharge directly into the Mere Burn which feeds into the River Coquet. This SSSI is highly sensitive, including to further phosphate pollution.

22. Paragraph 180 (b) of the Framework states that development on land within or outside a SSSI, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of SSSIs.
23. The appellant has stated that the proposed tertiary treatment system which would connect to the existing package treatment plant would ensure that "clean water" would be discharged through a silt trap into the Burn and would not give rise to a cumulative effect with other similar discharge points down river. However, there is insufficient technical evidence before me to corroborate that there would be no adverse change or any benefit arising to the existing position in terms of the level of phosphates, nitrates or other pollutants in the water course.
24. Therefore, I cannot conclude that both individually and, in combination with other treatment plants, that a suitable drainage solution for the proposed new dwelling would be achieved and pollution avoided. The benefits of the development in the location proposed which are detailed earlier do not clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of SSSIs. Therefore, in the context of paragraph 180 (b) of the Framework the potential harm to this SSSI is not justified.

Conclusion

25. In overall summary, given the potential harm which would arise from the drainage arrangements before me, the location of the appeal proposal is not desirable, with particular regard to the integrity of the ADWW and the SSSI. Therefore, it has not been demonstrated that condition Q.2 (1) e, required by Class Q of the GPDO is satisfied. There is no mechanism within the Prior Approval procedure to seek to remedy the appeal proposal's shortcomings through any additional conditions.
26. For these reasons, I conclude that the appeal should be dismissed.

C Dillon

INSPECTOR