



Appeal Decision

Site visit made on 21 July 2023

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2023.

Appeal Ref: APP/M1710/W/22/3310677

Aylesfield Farmyard, Froyle Road, Alton GU34 4BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr & Mrs P Caplan against the decision of East Hampshire District Council.
 - The application Ref 59807, dated 16 June 2022, was refused by notice dated 15 August 2022.
 - The development proposed is 'Prior Notification of Proposed Change of Use of Agricultural Barn to 4 no. Dwellinghouses (Use Class C3) and Associated Building Operations'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for the award of costs was made by the appellants against East Hampshire District Council and is subject of a separate decision.

Preliminary Matters

3. The appeal proposal relates to a prior approval notification made under Article 3(1), Schedule 2, Class Q, Part 3 of the Town and Country Planning (General Permitted Development) Order 2015, as amended (GPDO). Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

Main Issue

4. The main issue is whether the proposal would be permitted development, with particular regard to whether the requirements of Schedule 2, Part 3, Class Q.2(1)(e) of the GPDO would be met.
5. There is no dispute between the main parties that the other criteria of Class Q are satisfied, while I have no reason to conclude otherwise. Consequently, there is no need to give them further consideration in this decision.

Reasons

6. The appeal site relates to an existing agricultural building, located on Aylesfield Farmyard. Under Q.2(1)(e), it is necessary to consider whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change use. This can cover matters such as the living conditions of future occupiers of the proposal.

7. In refusing the application, the Council's decision notice refers to the proposal including insufficient external amenity space, thereby making the proposed dwellings impractical and undesirable contrary to the provisions of the GPDO. However, it is evident from the case officer's report and the Council's subsequent appeal statement that the Council's concern did not only relate to the overall size of each garden space to be provided but also their layouts and practicality.
8. 'Impractical' or 'undesirable' are not defined in the regulations. However, the Planning Practice Guidance (PPG) identifies that their reasonable ordinary meaning should be applied in making any judgement. Namely, that impractical reflects that the location or siting would not be 'sensible or realistic', and undesirable reflects that it would be 'harmful or objectionable'.
9. The proposal would involve the creation of two 'larger dwellinghouses' and two smaller dwellinghouses, as defined within the GPDO, with a cumulative floor area of approximately 620sqm (GIA). The appeal scheme's site area has been restricted in order to comply with the Part X interpretation of 'curtilage' within the GPDO. Given the footprint of each of the proposed dwellinghouses, and the need to also accommodate parking spaces within the curtilage, this has resulted in each of the related garden spaces being rather tightly positioned around the proposed dwellings.
10. I appreciate that there is no requirement within Class Q for a building to be accompanied by any associated curtilage land. However, to my mind it does not necessarily follow that the lack of curtilage or garden space is exempt from consideration as to whether a development would be impractical or undesirable as per the terms under Paragraph Q.2(1)(e). For example, it may not be impractical or undesirable for a scheme to deliver dwelling(s) without associated curtilage, or without garden land, where there may be availability of nearby public amenity space (e.g. common land, parks etc). I can however envisage scenarios whereby a development proposed under Part Q would be impractical or undesirable should it not include associated curtilage or garden space.
11. Consequently, I do not agree that an inadequate provision of garden space cannot fail under the assessment of Paragraph Q.2(1)(e), due to the regulations not expressly requiring, or setting a minimum amount of, curtilage that should be delivered.
12. Turning to the specifics of the proposal, each of the proposed dwellings would be served by private garden spaces. The gardens would all be generally 'L-Shaped' wrapping around each of the proposed host dwellings. The overall quantum of garden space that each dwelling would be served by, whilst not substantial, also appears reasonable in respect of the size of the dwellings and the maximum threshold restrictions outlined within the GPDO¹. Indeed, I am mindful that given the restrictions of the GPDO, garden spaces to serve such developments are often likely to be small in scale.
13. Each of the gardens would also be accessible immediately from internal space serving their respective dwellings, providing convenient access for potential future occupiers whilst having a logical relationship to the proposed dwellings.

¹ See Schedule 2, Part 3, Paragraph X 'Interpretation of Part 3' of the GPDO

14. Although the overall level of garden space to be provided may not be unsuitable, the main garden area serving each of the proposed dwellings would be severely limited in depth (approx. 4m in depth), whilst much of the garden space would also comprise a very narrow strip running alongside the dwelling. As a result of their layout, particularly their limited depths, the quality and functionality of the garden spaces would likely be extremely poor and undesirable. For example, the space could not comfortably accommodate a range of domestic activities alongside one another, such as, drying of clothes, children's play, sitting/dining outside etc.
15. I appreciate that the proposed development may not necessarily be used as family dwellings, nonetheless, the residential units would remain of a size that could accommodate several occupants. Even basic functions such as multiple residents utilising the garden spaces simultaneously would be severely compromised by their scale and configurations.
16. Additionally, to provide privacy both from one another and surrounding uses, the gardens would require boundary enclosures. I note the appellant's arguments that the precise boundary arrangements could be dealt with via a suitable condition should the scheme be approved. However, given the gardens' lack of depth and the likely height of the boundary treatment needed to provide any real sense of privacy, the enclosures are likely to dominate the garden spaces resulting in an oppressive quality to the external areas. The small, enclosed nature of the gardens alongside their orientation, particularly for plots 2 and 3, is also likely to result in the gardens being in shade for much of the day. As such, I consider the proposed gardens would be a rather dreary and undesirable space to relax or spend time.
17. In coming to the above views, I recognise that the Council does not have adopted guidelines in respect of the size/nature of gardens that should be provided, nonetheless, my concerns with the proposal remain.
18. The size and layout of the gardens is a function of the location and arrangement of the proposed development. Furthermore, it has not been demonstrated that there is suitably accessible public amenity space within the near vicinity of the site, that may to some extent compensate for the impractical and undesirable private outdoor space that would be provided.
19. As such, based on the scheme before me, I find that the location would be both impractical and undesirable for the proposed dwellings. The proposal therefore fails to satisfy provision (e) of Schedule 2, Part 3, Class Q.2 (1) of the GDPO.

Conclusion

20. For the reasons outlined above, the appeal is dismissed.

Lewis Condé

INSPECTOR