



Appeal Decision

Site visit made on 23 January 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2024

Appeal Ref: APP/U2615/W/23/3320442

Breydon View, Market Road, Burgh Castle, Norfolk, NR31 9EN

- 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 and 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 Mr Russell Loades against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/23/0029/PAD, dated 10 January 2023, was refused by notice dated 30 March 2023.
 - The development proposed is conversion of agricultural buildings to two dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Article 3 and Schedule 2, Part 3, Class Q of the General Permitted Development Order (GPDO), grants planning permission for: (a) 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 Classes Order; or (b) development referred to in paragraph (a) together with building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that schedule. Such development is permitted subject to the limitations and restrictions set out within paragraph Q.1. (a) to (m) inclusive.
3. Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required to assess a limited range of matters, listed (a) to (g) at paragraph Q.2.(1).
4. The application form states that the proposal relates to two larger dwellings, whereas the plans show one larger dwelling, and one smaller dwelling. I have disregarded the error on the form and have determined the appeal on the basis of the details shown on the submitted plans.

Main Issues

5. The main issues are i) whether the proposed development would comply with the requirements applicable to development permitted by Class Q of the GPDO;

and ii) the effect of the development on European Designated Sites.

Reasons

Whether permitted development

6. The evidence before me confirms that the appellant purchased the site as an agricultural unit in 1984. I am advised that the buildings, which are agricultural in nature, have been dormant since that time. The buildings were empty at the time of my visit and I saw nothing to suggest that they were currently or had previously been used for anything other than agricultural purposes. In the absence of any evidence to suggest otherwise, I am satisfied that the buildings were last used for agricultural purposes and that that use ceased prior to 20th March 2013.
7. Given that the agricultural use of the unit ceased during or before 1984, and I saw no new agricultural buildings, or converted former agricultural buildings, within or around the site, I have no reason to doubt that no other buildings or changes of use have been granted under permitted development rights. Indeed, the eligibility section of the application form and the Design and Access Statement confirm that no buildings have been erected or extended for agricultural purposes within the unit, under permitted development rights, since 20th March 2013. The Council has also not identified any other nearby buildings that it considers may have been erected, extended or converted under permitted development rights.
8. Based upon the information and drawings submitted, the development would not result in the external dimensions of the buildings extending beyond those of the existing buildings at any given point. The proposal would also not consist of any building operations other than the installation of windows, doors, roofs or exterior walls, or the installation of utility services and partial demolition. I do not agree that rendering or painting the buildings would increase their external dimensions, and in any event, such works could be undertaken without the need for planning permission.
9. As of 6 April 2021, Article 3, Schedule 2 of the GPDO does not grant permission for, or authorise any development of, any new dwellinghouse where the gross internal floor area is less than 37 square metres in size or that does not comply with the nationally described space standard (NDSS) issued by the Department for Communities and Local Government on 27th March 2015.
10. There is no dispute that each of the proposed dwellings would have a gross internal floor area exceeding 37 square metres. However, except for the large buildings that would form the living room and kitchen to unit 2, the buildings all have relatively low eaves and ridge heights. The structural survey, whilst confirming that the walls and floors are in good condition, advises that upon adding a damp proof course and insulation, the internal floor levels would be increased by approximately 150mm. This would further reduce the internal floor to ceiling heights.
11. Whilst I acknowledge that the internal works undertaken to the lining of the building to meet the thermal requirements of Building Regulations would not normally be considered development, it is still necessary for me to assess whether or not the proposed dwellings would meet the necessary space standard. In the absence of sectional drawings, showing the internal height of

the dwellings following the necessary improvement works, I cannot be sure that the minimum floor to ceiling height of 2.3 metres for at least 75% of the Gross Internal Area, as set out in the NDSS would be complied with.

12. Class W of the GDPO sets out the procedure for prior approval under Part 3. Paragraph W.(2), requires amongst other things, a written description of the proposed development, which must include any building or other operations and a floor plan indicating the total floor space in square metres of each dwellinghouse, the dimensions and proposed use of each room, the position and dimensions of windows, doors and walls, and the elevations of the dwellinghouses. Paragraph W.(3)(b) is clear that applications may be refused if the developer has provided insufficient information to establish whether the proposed development complies with any conditions, limitations or restrictions applicable.
13. In this case the only dimension provided on the submitted plans is the total floorspace of the buildings. Elevations have not been provided for any of the walls facing into the courtyard. The floor plans also fail to label the use of the buildings in the southeast corner, between units 1 and 2. As there is no internal link shown between these parts of the building and the proposed dwellings, and no changes are shown to these areas on the elevation and floor plans provided, it is unclear whether they form part of the proposed change of use at all, or if they would be utilised as non-habitable parking and/or storage space, incidental to the proposed dwellings. There are no sectional drawings showing the floor to ceiling heights following the proposed works to insulate the floors and there are no details of any other operations such as a description or plan showing the proposed drainage operations, or the parking and curtilage arrangements for each dwelling.
14. I therefore conclude that insufficient evidence has been submitted to demonstrate that the proposal would meet the requirement for new dwellings permitted under the GPDO, to comply with the NDSS.
15. As the development is not permitted under the GPDO, it is not necessary for me to consider the prior approval matters listed at paragraph Q.2(1). However, in the interests of completeness, I have considered those matters which the Council has raised concerns about.
16. In relation to Q.2(1)(c), given the historic use of the site there is some potential for contamination. However, I agree with the Council that this could be dealt with by way of a condition. Paragraph W.(13) states that prior approval may be granted subject to conditions reasonably related to the subject matter of prior approval.
17. In relation to Q.2(1)(e), the limited internal floor to ceiling height of some parts of the buildings is not relevant to the suitability of their siting and location. As the surrounding land and buildings are not in active use for agricultural or commercial purposes and the site is served by an existing access, the location of the buildings is not impractical or undesirable for residential use.
18. In relation to Q.2(1)(f), the limited internal floor to ceiling height of parts of the buildings is not relevant to their external appearance. There is conflicting information regarding the roof material and whether the walls would be rendered or painted. Whilst details of the external appearance should have been provided, in this case, given the minor nature of the external alterations,

which would not increase the external dimensions of the buildings, I am satisfied that the external appearance of the buildings would be acceptable, subject to a condition requiring external materials to be agreed. However, failure to comply with the NDSS would result in the dwellings being unacceptable in terms of design.

19. I have not been provided with floor area calculations for each of the proposed dwelling units or for the area of curtilage proposed to serve each. There are numerous lines on the submitted plans, which cause some confusion as to what land is included in the application. However, I have taken the line surrounding the perimeter of the buildings to be converted, as shown on the proposed ground floor plan, as being the proposed curtilage. This excludes the area of the proposed dwellings, and of the unlabelled buildings located between the two units. As this area would not be greater than the area of the buildings to be converted, it would accord with the curtilage definition set out in Part X of the GPDO. The GPDO does not require dwellings permitted under Class Q to have any private curtilage and indeed where this is provided it is limited to a small area. Given the scale of the dwellings and the open nature of the area surrounding the site, the limited curtilage area would not justify withholding consent. It would be open to the appellant to seek planning permission for the change of use of additional land in the future, to increase the parking and garden areas to serve future occupiers of the proposed dwellings.

Effect on European Designated Sites

20. I am advised that the site is located within the zone of influence for one or more European designated sites. The proposal for two dwellings would result in increased recreational pressure, which in combination with other development is likely to have a significant effect on the sensitive interest features of these sites. An adopted strategy, produced in conjunction with Natural England and other local authorities, is in place to address such circumstances. I understand that a tariff payment has already been made to the Council in accordance with this strategy, which was the correct tariff due at the time the decision and payment were made. Accordingly, this did not form a reason for refusal. I also note that Natural England has been consulted and has not objected to the proposal. Had I found that the Council's decision was incorrect, it would not be reasonable to request an increase in tariff that had occurred since that decision was made.
21. The site is not located within a Natural England nutrient neutrality catchment area. However, concerns have been raised that wastewater from the development could go into the main sewer, and that this may discharge into a nutrient neutrality catchment area. There is very little evidence before me to substantiate these concerns or indeed to rule them out.
22. It is normal practice, prior to submitting an application, to consult the local sewerage undertaker or the public sewer map for the area, to establish whether or not there is a public sewer nearby that the development could connect to. Where this is not feasible, non-mains sewerage can be considered and an appropriate discharge point for the treated clean water can be agreed. In this case I have not been provided with any drainage proposals and there is nothing before me to confirm whether or not wastewater from the development would go into a public sewer, or if, given its rural location, a non-mains drainage solution would be acceptable.

23. In the absence of any information as to how wastewater from the development would be dealt with, I cannot be satisfied that it would not discharge into a nutrient neutrality catchment area, without suitable avoidance or mitigation measures being in place, resulting in harm to nearby European designated sites.

Conclusion

24. Insufficient information has been provided to demonstrate that the proposed dwellings would comply with the NDSS, with particular regard to finished internal floor to ceiling heights, or to demonstrate how wastewater from the proposed development would be disposed of, without resulting in harm to any European designated sites. Consequently, the appeal is dismissed.

R Bartlett

INSPECTOR