



Appeal Decision

Site visit made on 17 July 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th August 2024

Appeal Ref: APP/P2935/W/24/3339404

Building near Waterside Cottage, Acklington, Northumberland NE65 9AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
- The appeal is made by Mr Jonathan Dodd (Guyzance Hall Estate Ltd) against the decision of Northumberland County Council.
- The application Ref is 23/03790/AGTRES.
- The development proposed is prior notification to convert an existing but now redundant agricultural building on the Guyzance Estate for permanent residential use (Use Class C3) as part of the Guyzance Estate property portfolio.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the banner heading above is based upon that provided on the appeal form rather than the application form as it more comprehensively describes the location of the site.
3. The Town and Country Planning (General Permitted Development) England (Amendment) Order 2024 came into force on 21 May 2024. Transitional arrangements apply to applications submitted under the previous iteration of the Order. Due to the transitional arrangements, I have proceeded to determine the appeal in accordance with the GPDO provisions that were in force at the time the original application was submitted in October 2023. All references to the GPDO in this decision therefore relate to the version that was in force at that time.

Background and Main Issues

4. Under Article 3(1) and Schedule 2, Part 3, Class Q(a) and Q(b) of the GPDO, development is permitted for the change of use of a building, and any land within its curtilage, from use as an agricultural building to a use falling within Class C3 (dwellinghouses) together with building operations reasonably necessary to convert that building, subject to limitations and conditions set out in paragraphs Q.1. and Q.2.
5. The local planning authority may refuse the application where it considers that the proposed development does not comply with the conditions, limitations or restrictions set out in paragraphs Q.1. and Q.2. The application may also be refused where it is considered that the developer has provided insufficient

information to enable it to be established whether the proposed development complies with those same conditions, limitations or restrictions.

6. Amongst the conditions, paragraph Q.2 requires the developer to apply to the local planning authority for prior approval. In this case, the Council have refused the application in relation to that matter which relates to 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 as a dwellinghouse. More specifically, the Council's objections relate to the effects of the development upon the nearby Acton Dene Ancient and Semi-Natural Woodland (ADAW) and the River Coquet and Coquet Valley Woodlands Site of Special Scientific Interest (SSSI).
7. In its second reason for refusal, the Council has articulated its concern that, in the absence of suitable mitigation, the development would have adverse effects upon the integrity of the Northumbria Coast Special Protection Area (NCSPA) and Ramsar Site and the North Northumberland Dunes Special Area of Conservation (NNDSOA). In response to this the appellant has submitted a signed unilateral undertaking (UU). The purpose of the UU is to secure a financial contribution towards mitigation measures in relation to the potential for the development to result in recreational activity that would adversely affect the NCSPA and NNDSOA.
8. However, the assessment of the effects on the NCSPA and NNDSOA would fall to a separate application procedure under Regulation 77 of the Conservation of Habitats and Species Regulations 2017 had the appeal succeeded. Therefore, it is not necessary for me to consider the effects of the development upon the designated sites further and the submitted UU has no bearing on my assessment of this appeal.
9. In this context, the main issues are:
 - Whether prior approval should be granted having regard to the effects of the proposed development upon the ADAW; and
 - Whether prior approval should be granted having regard to the effects of the proposed development upon the SSSI.

Reasons

The ADAW

10. The appeal site principally comprises of an aged stone built former cow byre, a walled yard to its front and part of an access track. To the sides and back of the site there is an area of woodland. This includes tall, mature trees which are positioned in close proximity to the byre building but, between them, some more open areas of land as well. A plan showing the bounds of the ADAW is before me, and this shows the ADAW to be on the very fringes of the appeal site.
11. Woodland can still properly constitute ancient woodland even if there is not continuous tree cover across its entirety. Some open ground, both temporary and permanent, can be expected within ancient woodland and can be an important component of them. Furthermore, not all of the trees within an ancient woodland have to be old.

12. Given the wooded nature of land to the surroundings to the appeal site, the proximity of large mature trees to the site and that ancient woodland can have varied components, I have no good reason to conclude that the bounds of the ADAW, as shown on the designation plan before me, is incorrect. I also have no good reason to conclude that the boundary of the ADAW should have had particular regard to the presence of the appeal site and been deliberately drawn farther from it.
13. At least one large tree is within topple distance of the building sought for conversion. Even though it is in good condition, given its proximity to the site, it would pose some risk to the future occupiers of the development, and the converted property they would be within, by reason of the risk of it falling or branches falling from it. Although the principal elevation of the dwelling would be orientated away from the woodland, the proximity of trees and their effects such as shading could still result in some pressure for works to be undertaken to them. Consequently, and even though responsible tree management is clearly already a requirement in the area, the provision of the dwelling would be likely to bring about specific tree management requirements that could cause habitat deterioration.
14. Despite the management efforts that could be made during the construction phase of the development, and some of the design features proposed to be deployed within the building's design, the development is likely to cause some disturbance of the ancient woodland. The most likely effects would include noise from the construction and operational phases of the development which would affect wildlife. The soils, ground flora, fungi, deadwood and tree understorey, which make important contributions to ancient woodland, could be damaged by construction works and later by the recreational activities related to occupation.
15. The pending byway status of the access track may in time bring with it its own effects upon the ADAW, but these are subject to a separate process and separate from the consideration I must give to the appeal proposal. That such effects arising from the use of the access track could occur does not absolve the need to consider those that would result from the proposed conversion.
16. In coming to these views, I acknowledge that the Inspector's concerns in the earlier appeal¹ were mainly focused on the drainage infrastructure proposed at that time, and this has now changed. However, appeal decisions are heavily dependent on the case-specific evidence and circumstances. I have come to my own views on this appeal having regard to the evidence before me now, my own experience and the particular circumstances of the case. For the reasons I have set out above, I have identified that other effects upon the ADAW, unrelated to the siting of drainage infrastructure, would be likely to result from the proposal.
17. Read as a whole, I find that the Natural England and Forestry Commission's standing advice relates to planning decisions that affect ancient woodland, ancient trees or veteran trees. Therefore, its content is relevant to applications and appeals relating to prior approval. Natural England's consultation response explains that they only provide bespoke advice on ancient woodland where they also form part of a SSSI or in exceptional circumstances. Such circumstances do not apply on this case. Therefore, that their response

¹ Appeal Ref: APP/P2935/W/23/3315318

principally focuses upon the effects of the development in respect of Habitats Sites and not the ancient woodland, or indeed the nearby SSSI, does not weigh in favour of the proposal. Whilst I acknowledge that the 15 metre (m) buffer zone recommended within the standing advice relates to root damage, such buffer zones, which can be required to be larger than 15m, also serve other protective purposes. A protective zone of 15m would not be provided in this proposal.

18. Ancient Woodland is irreplaceable habitat. The Framework sets out that development resulting in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. For the reasons I have given, I find it likely that the development would result in some effects which would deteriorate the ADAW.
19. Some beneficial effects would emerge from the development. A building of some heritage significance would be re-used, and a modest contribution to housing supply in the area would result. Some new habitats for birds, bats and other animals would be formed. I have also had regard to the proposal to plant and manage additional woodland elsewhere, but this would not adequately compensate for the harm to the established irreplaceable habitat.
20. Overall, I find that the development would result in harmful effects upon the ADAW. There are no reasons applicable to the development, including the strength of its beneficial impacts, which justify this harm taking place or outweigh it. It is, therefore, undesirable for the building to change from agricultural use to a use as a dwellinghouse. For this reason, prior approval should not be granted.

SSSI

21. Although the appeal site is not within the SSSI, it is located nearby to it. The River Coquet running through the SSSI is a relatively unmodified fast-flowing upland river supporting characteristic fauna and flora and is of national nature conservation importance. The SSSI is sensitive to water pollution, and minimising the potential for such pollution is a management objective within it in order to conserve and enhance its special interest.
22. Unlike a previous scheme at the appeal site, no direct drainage discharge into the nearby Mere Burn, which feeds into the River Coquet, is proposed. Instead, foul water discharges are proposed into the ground via percolation.
23. However, no substantive evidence is before me which demonstrates that such percolation would be effective. Even if the percolation occurred successfully, there would be some residual risk that, as a result of natural water cycle and groundwater related processes, pollution could still enter the River Coquet. I accept that, as only a single dwelling is proposed, the amount of foul water to be discharged would be relatively modest. Even so, should any polluting effects upon the SSSI occur, these would be likely to be harmful to its interest features.
24. Given the SSSI's sensitivity to water pollution and the lack of technical evidence before me to allay my concerns, I consider a precautionary approach should be taken. That the circumstances in which prior approval may be refused includes when insufficient information to enable it to be established

whether the proposed development complies with the conditions of paragraph Q.2, serves to strengthen the adoption of a precautionary approach.

25. For the reasons I have set out, I am not confident that the development would not be likely to adversely affect the SSSI.
26. The appellant highlights that the building operations reasonably necessary to convert a building through the permitted development rights afforded by Class Q include drainage works. However, this is still subject to the prior approval matters under the paragraph Q.2. conditions, and that application for those prior approval matters can be refused. This includes Q.2.(e) which relates to 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 as a dwellinghouse.
27. I have also given consideration as to whether my concerns in regard to drainage and the SSSI could be resolved through the imposition of a condition, however, I conclude that such an approach would be inappropriate. Given the protection afforded to the SSSI and its sensitivity to pollution, I find that the effects of the development upon it should be established before any approval should be granted, and it would be an unreasonable approach to effectively defer the matter.
28. The Framework sets out that development on land within or outside of 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 to this being where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site, and any broader impacts on the national network of SSSIs.
29. The benefits of the development, which I have summarised in the main issue above, would not clearly outweigh its likely adverse effects upon the features of the SSSI. Again, therefore, it is undesirable for the building to change from agricultural use to a use as a dwellinghouse, and prior approval should not be granted.

Conclusion

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

H Jones

INSPECTOR