
Appeal Decision

Site visit made on 20 August 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2024

Appeal Ref: APP/L2630/W/23/3335813

Pied Bridge Farm, Burntoak Lane, Alburgh, Harleston, Norfolk IP20 0DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant, subject to conditions, of approval granted 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 appeal is made by Kelly and Andrew Denny, Piedbridge Pigs against the decision of South Norfolk District Council.
 - The application Ref 2023/2644
 - The development proposed is notification for Prior Approval for a proposed change of use and associated building works of an agricultural building to a dwellinghouse (QA and QB).
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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 Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for Notification for Prior Approval for a proposed change of use and associated building works of an agricultural building to a dwellinghouse (QA and QB) at Pied Bridge Farm, Burntoak Lane, Alburgh, Harleston, Norfolk IP20 0DT in accordance with the application Ref:2023/2644. The approval is subject to the condition that the development must be completed within a period of 3 years from the date of this decision in accordance with Paragraph Q.2 (3) of the GPDO and subject to the following additional conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Kelly and Andrew Denny, Piedbridge Pigs against the decision of South Norfolk District Council. This application is the subject of a separate decision.

Preliminary Matters

3. No application description was provided on the application or appeal form. I have therefore used the description from the Council's decision notice.

Background and Main Issues

4. 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 (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.

5. The local planning authority (LPA) may refuse the application where it considers that the proposed development does not comply with, or that the developer has provided insufficient information to enable the Council to establish whether the proposed development complies with the conditions, limitations or restrictions set out in paragraphs Q.1 and Q.2.
6. The application was refused on the basis that the proposal would not be permitted development, as it fails to meet the provisions of Paragraph Q.2(1) (b) and (e). These provide that development is permitted subject to the condition that before beginning the development, the developer apply to the local planning authority for a determination as to whether the prior approval will be required as to noise impacts from the development and 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) of the Schedule of the Use Classes Order. The Council has not raised any issues in respect of Paragraph Q.1 and I have no reason to disagree.
7. On the basis of above, the main issue is whether the location or siting of the agricultural buildings make it otherwise impractical or undesirable for them to be used as a dwellinghouse in terms of its effect on the living conditions of future occupiers of the dwellinghouse with particular regard to odour and noise.

Reasons

8. The appeal site is located within the farmyard of Pied Bridge Farm. There are numerous agricultural buildings, last in use to house pigs as part of an agricultural enterprise which has now ceased operation. The buildings did not appear to house equipment or animals at the time of my site visit. The appeal building is a large agricultural barn on the western edge of the existing farmyard, there is open arable farmland to the west and north. To the south-east of the proposed dwelling there is an open sided barn (Longbridge Barn) that is currently in use for rearing sheep. The proposal would be a 4 bedroom dwelling. Vacant agricultural buildings within the wider site in the appellant's ownership would be demolished.
9. There is no specific guidance on what constitutes 'impractical or undesirable' for the purposes of criterion (e) of Q.2, but the Planning Practice Guidance (PPG) provides some information about considerations which may be relevant¹. This includes such elements as intensive poultry farming buildings, silage storage or buildings with dangerous machines or chemicals. The appeal site would not be adjacent to any of these; however, this is not a closed list.
10. The agricultural use of Longbridge Barn is unrestricted and outside the control of the appellant. However, agricultural buildings in close proximity to dwellings can cause issues with living conditions if they are being utilised intensively or not. Farmers accessing buildings for storage of machinery, early morning activity, noises and odour from animals can occur all year round from small agricultural buildings that are not in an intensive use.

¹ Paragraph: 109 Reference ID: 13-109-20150305

11. The noise from livestock has been assessed by the appellant who states that, due to the nature and limited duration of the sheep rearing activity it would be unlikely to have an unacceptable impact upon the living conditions of future occupants of the dwelling. Although there are concerns that the assessments were undertaken at a quieter time for sheep rearing, the appellant's noise assessment has also incorporated worst-case scenario noise levels from cattle. I have no evidence that this is not a suitable methodology to use.
12. During typical farming operation, noise would generally not exceed internal noise criteria. Whilst increased agricultural activity could exceed background sound levels, the use of mitigation in the form of a ventilation strategy alongside the proposed layout of the dwelling would result in the proposal meeting internal noise levels within the World Health Organisation (WHO) Guidelines for Community Noise 1999. External noise criteria would also be met even if the building was used for longer periods and more intensively.
13. In relation to odour, whilst I could not be certain that Australian data is relevant, the appellant has acknowledged this and explained that there is little information on odour omission from sheep. The appellant has therefore also applied higher emission rates from studies of cattle rearing within the odour dispersion modelling study. This indicates that at the proposed residential development, odour exposure would be well below the Environment Agency's benchmark for moderately offensive odours, which is a maximum annual 98th percentile hourly mean odour concentration of 3.0 ouE/m³ (European Odour Units per metre cubed of air). I have not been presented with substantive evidence that insects would be present or a particular nuisance, given that the odour report identified that odour impacts would be low.
14. The noise and odour assessments have found that subject to mitigation measures, the appeal site would be suitable for residential use. Whilst agricultural could be intensified, and activity is unrestricted the position and limited extent of the size of Longbridge Barn and land associated with Longbridge House would mean that vehicles or agricultural activity would be focussed toward the road, or Longbridge House, and not in the direction or close to the appeal site.
15. However, I am aware that the appeal site is surrounded to the north and west by arable farmland. Odour could feasibly occur from spreading of farm manure and agricultural chemicals. Noise could occur from associated bird scaring gas bangers, as well as periodic tractor or agricultural vehicle movements associated with the management of the arable farm. These elements have not been accounted for within the surveys.
16. The appellants contend that other agricultural activities are controlled through separate regulatory regimes or best practice guidance. I have not been provided with details of their frequency or specifically where other agricultural activity may take place. I agree with the Council that farming activity does not have to amount to a statutory nuisance to affect the living conditions of future occupants of the building. However, there is a relatively substantial separation distance between the appeal site and neighbouring arable land.
17. In rural areas such as this, wider rural activities and associated odour, noise and disturbance is commonplace, and any future residents would likely be alive to this possibility and individuals would make an informed choice as to whether to reside here. Furthermore, both the assessments, and the proposal

have been reviewed by the Council's environmental health team, who have raised no objections. I have no reason to dispute the findings of the appellant's reports or substantive evidence that the building, subject to the mitigation, to include amongst other elements mechanical ventilation and dual aspect rooms, would not be suitable for residential occupation.

18. In this context, the noise and odour impacts from the adjacent farms upon residential living conditions would not be sufficiently harmful to conclude the location or siting of the agricultural buildings make it otherwise impractical or undesirable for them to be used as a dwellinghouse permitted under Class Q. Insofar as it is material to the issue, the proposal would not conflict with paragraph 135(f) of the National Planning Policy Framework. This seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

19. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
20. Pied Bridge Farm House is Grade II Listed². Its significance lies in its architectural and historic development and relationship with the surrounding area. The Council has not raised any concerns in this respect. From my observations given the retention of the rural appearance of the appeal building and its spatial relationship with the listed building, I conclude that the proposed development would result in a neutral impact upon it.
21. The Council's officer report evidenced states that the appeal site is located outside the catchment areas of the River Wensum Special Area of Conservation and the Broads Special Area of Conservation and Ramsar site. Such European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (Habitat Regulations). The Council also states that the proposal does not involve foul or surface water drainage into those catchment areas.
22. However, the appeal site falls within the Zones of Influence around these habitat sites. The Norfolk Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy (GIRAMS) (2021) implements a strategy of mitigation measures to alleviate the potential disruption to habitat sites caused by recreational visits in these areas. The appellant has submitted a signed Unilateral Undertaking to secure these contributions and the Council is therefore satisfied adequate mitigating has been provided, and I see no reason to disagree.
23. The grant of planning permission under Article 3(1) of the GPDO is subject to the provisions of the GPDO for each class of development and compliance with regulations 75 to 78 of the Conservation of the Habitats Regulations. Effectively, Article 3(1) provides a pre-commencement condition which must be met, where the development would affect a European protected habitat before the works can be undertaken as permitted development. This includes a

² Historic England List Entry Number: 1303178

separate application to the Council under regulation 77 of the Habitats Regulations to allow the Council to undertake an appropriate assessment and, depending on the outcome, this would determine whether, in terms of that matter, the scheme could be undertaken as permitted development under the GPDO.

24. Based on the evidence before me, it is not clear if an application to the Council under regulation 77 has been made. However, as the regulation 77 application can be submitted and potentially approved after the granted of prior approval, it is not determinative in respect of the main issues that I have examined and, therefore, I do not need to consider this matter further as part of this appeal. This is a matter between the appellant and the Council in the first instance.
25. Other concerns have been raised by interested parties. These include fire risk, water supply, highway safety and the effect on wildlife and protected species. Other than as set out above, the Council did not conclude that these aspects would amount to reasons to justify withholding planning permission. Concerns have also been raised regarding the occupation of the dwelling should children reside there. However, I have been provided with no substantiated evidence which would prompt me to conclude that these concerns make the appeal site impractical or undesirable for a dwelling given that younger children in particular are likely to be supervised. Whether the appellant, when undertaking surveys had permission to access Longbridge House premises or land is a private issue and not a matter before me.

Conditions

26. Paragraph W (13) of Part 3 of Schedule 2 of the GPDO allows for the imposition of conditions reasonably related to the subject matter of the prior approval. I have considered the conditions suggested by the Council, which the appellants have confirmed they agree to. I have undertaken some minor editing and rationalisation of the suggested conditions in the interests of precision and clarity.
27. Paragraph Q.2 (3) of the GPDO requires that the development must be completed within a period of 3 years from the date of this decision. Paragraph W(12) requires the development to be carried out in accordance with the approved details. However, Condition [1] is imposed for certainty.
28. Conditions [2], [3] and [8] relate to potential contaminated land and importation of topsoil. These conditions are necessary given the agricultural use of the site to ensure that risks from the land to future users is minimised. Condition [4] is necessary to ensure the ecological mitigation and enhancement is undertaken in accordance with the proposed scheme.
29. Condition [5] is necessary to ensure the provision of acoustic mitigation within the dwelling. Condition [6] requires the demolition of associated vacant buildings prior to the first occupation of the development. The retention of the buildings would make it undesirable for the building to change to a dwelling. This condition is reasonable and necessary to ensure that the buildings could not be used to house livestock to ensure suitable living conditions for future occupiers. Conditions [7] and [9] are necessary to ensure the suitable operation of the appeal proposal in the interests of living conditions of nearby existing and future occupiers.

30. The Council suggested a condition to remove permitted development rights. Paragraph 53 of The Framework states that this should only be done where there is clear justification which I do not consider has been given.

Conclusion

31. I conclude that the appeal should be allowed and prior approval granted.

K Williams

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with Drawing No's: 304380-30-001 Location Plan, 304380-30-002 Curtilage Plan, 304380-30-005-Rev B Proposed Plans and Elevations; and 304380-30-202 Demolition Plan.
- 2) With the exception of above ground clearance, demolition works, and tree protection works, no development shall take place until the following components of a scheme to manage the risks associated with contamination of the site have been submitted to and approved, in writing, by the local planning authority as necessary:
 - 1) A preliminary risk assessment which has identified: a) all previous uses b) potential contaminants associated with those uses c) a conceptual model of the site indicating sources, pathways and receptors d) potentially unacceptable risks arising from contamination at the site.
 - 2) If the preliminary risk assessment identifies a potential unacceptable risk from contamination, a site investigation scheme and a full risk assessment, based on the preliminary risk assessment shall be undertaken, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. The site investigation scheme and full risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include: a survey of the extent, scale and nature of contamination b) an assessment of the potential risks to: (i) human health: (ii) property(existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes: (iii) adjoining land: (iv) controlled waters: (v) ecological systems: (vi) archaeological sites and ancient monuments. c)an appraisal of remedial options and proposal of the preferred option(s). This must be conducted in accordance with the Governments guidance 'Land Contamination Risk Management.'
 - 3) If the site investigation scheme and full risk assessment identifies a need for remediation, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks identified at 2) b). The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of land after remediation.
 - 4) Where a remediation scheme is submitted and approved under part 3) of this condition, the approved remediation scheme must be carried out in accordance with its terms prior to the commencement of groundworks, other than that required to carry out remediation, unless otherwise agreed, in writing, by the Local Planning Authority.
 - 5) Where a remediation scheme is submitted and approved under part 3) of this condition, the local planning authority shall be given prior written notification of commencement of the remediation scheme works. Following the completion of measures identified in any approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be produced. No occupation of the development shall take place until the verification report has been submitted to and approved in writing by the local planning authority, unless a revised timetable for

submission of the verification report has been first agreed in writing by the local planning authority.

- 3) If, during development, contamination not previously identified is found to be present, then no further development shall be carried out in pursuance of this permission until a scheme has been submitted to and approved by the Council as Local Planning Authority detailing how this contamination shall be dealt with in accordance with the remediation scheme as set out above. Only when evidence is provided to confirm the contamination no longer presents an unacceptable risk, can development continue.
- 4) The development shall be carried out in accordance with the recommendations and enhancement measures set out at sections 7 and 8 of the Ecology Report carried out by Wild Frontier Ecology dated January 2023. The enhancement measures shall be retained for the lifetime of the development and thereafter retained unless otherwise agreed in writing by the Local Planning Authority.
- 5) The development shall be carried out in accordance with the approved noise remediation scheme set out in section 7 of the Noise Assessment carried out by Infinity Acoustics. Following completion of remediation and prior to first occupation of the dwelling, a verification report that scientifically and technically demonstrates the effectiveness and success of the remediation scheme shall be submitted to and approved in writing by the Local Planning Authority, and the remediation scheme shall thereafter be retained for the lifetime of the development.
- 6) In accordance with prior approval reference 2023/1847 the buildings shown on drawing number 304380-202 (Demolition Plan) shall be demolished prior to the first occupation of the new dwelling hereby approved.
- 7) Prior to first occupation of the development hereby permitted the proposed on-site car parking and turning area shall be laid out, levelled, surfaced and drained in accordance with the approved plan and retained thereafter for that specific use.
- 8) All imported topsoil and subsoil for use on the site shall either (a) be certified to confirm its source and that it is appropriate for its intended use or (b) in the absence of suitable certification, analysis of the imported material will be required along with evaluation against the derived assessment criteria for this site. No occupation of the development shall take place until a copy of the certification has been submitted to the Local Planning Authority.
- 9) No Air Source Heat Pumps (ASHP) shall be installed unless full details of the design, location and sound levels (in dB) have been submitted to and agreed in writing by the local planning authority. The ASHP shall be installed and maintained in accordance with manufacturers guidance. The ASHP shall thereafter be implemented in accordance with the approved details and shall be retained as such thereafter.

End of Schedule