



Appeal Decision

Site visit made on 19 November 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th December 2024

Appeal Ref: APP/Y2620/W/24/3340221

Land off Plumstead Road, Edgefield, Norfolk NR24 2AQ

- 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 appeal is made by Mr and Mrs Ben and Anita Jones against the decision of North Norfolk District Council.
 - The application Ref is PU/23/1670.
 - The development proposed is change of use of agricultural building to single 3 bedroom dwelling with a carport and associated development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal proposal relates to a prior approval notification made under Article 3(1), Schedule 2, Part 3, Class Q of the GPDO. Development plan policies and the National Planning Policy Framework ('the Framework') can be considered relevant to prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.
3. The Council has made reference to the amendments to the GPDO as set out in the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2024 ('the Order') which came into effect on 21 May 2024. The transitional arrangements set out in Article 10 of the Order clarify that the amendments do not apply in relation to previously permitted development under Class Q of the GPDO in respect of which an application for a determination as to prior approval is made before 21 May 2025. As the original application was submitted in August 2023, I have considered the proposal on this basis and all references to the GPDO within this decision relate to the version that was in force at the time of the original submission.
4. The appellants evidence includes an Addendum Structural Report¹ including calculations. Whilst this information was not before the Council at the time that it made its decision, it was provided at the outset of the appeal and the Council has had opportunity to comment upon it. As this evidence does not alter the appeal scheme, having regard to the principles set out in *Holborn Studios Ltd*, no party has been prejudiced by my taking this information into account in determining this appeal.

¹ Addendum Report on Dutch Barn, Plumstead Road, Edgefield; Rossi Long Consulting, January 2024 (Ref 231066)

Background and Main Issues

5. Schedule 2, Part 3, Class Q(a) of the GPDO permits 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). Class Q(b) of the GPDO permits building operations reasonably necessary to convert the building.
6. Where development is proposed under Class Q(a) together with Class Q(b), and the proposed works are found to be permitted development, it is subject to the condition under Paragraph Q.2(1) that before beginning the development, an application must be made to the Local Planning Authority for determination as to whether prior approval is required with regard to (a) transport and highways impacts, (b) noise impacts, (c) contamination risks, (d) flooding risks, (e) location and siting, (f) the design and external appearance and (g) the provision of adequate natural light in all habitable rooms.
7. Schedule 2, Part 3, Paragraph W of the GPDO sets out that local planning authorities may refuse an application where, in its opinion, the proposed development does not comply with any conditions, limitations or restrictions specified as being applicable to the development in question.
8. The Council refused to grant prior approval on the basis that the proposal did not constitute development permitted under Schedule 2, Part 3, Class Q. It also raised, within the Officer's report concerns in relation to the transport and highways impacts of the proposal, its design and external appearance and its location and siting, which are matters requiring prior approval in relation to Class Q development.
9. Accordingly, the main issues are whether the proposal would constitute permitted development under Schedule 2, Part 3, Class Q, and if so, whether prior approval should be given, with respect to whether the transport and highways impacts, and the design or external appearance of the building would be acceptable, 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 dwelling.

Reasons

Whether permitted development

10. The appeal building is metal frame dutch field barn, open on two sides and currently in use for the storage of bales. The building is of a wholly metal construction, including the arched barrel roof, and is supported upon concrete pads.
11. The proposal would include the provision of two additional walls in order to fully enclose the structure, and internal works to form rooms. The existing walls would be repaired and painted, with brick insertions to lower the walls fully to ground level. New walls would be formed by a mix of corrugated and timber cladding, with large sliding glass panel windows in the eastern and southern elevations. Further window openings would be created in the western and northern elevations.
12. Paragraph Q.1(i) of the GPDO sets out that development under Class Q(b) is not permitted if it would consist of the building operations other than the

installation or replacement of windows, doors, roofs or external walls or water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse.

13. The Planning Practice Guidance ('PPG') states that the right under Class Q assumes that the agricultural building is capable of functioning as a dwelling. While as set out above, the right permits building operations reasonably necessary to convert the building, it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use.
14. There is no definition to the term 'reasonably necessary' within either the GPDO or PPG, and this is a matter of planning judgement based on the fact and degree of each case. The parties have referred to Hibbitt² which considered whether works required to bring about a change of use amount to re-build or 'fresh' build as opposed to conversion. The case reinforces that is a matter of planning judgement, however the building should be capable of conversion without new structural elements, and the existing building should be capable of bearing loading from external works.
15. The proposal would not involve the demolition of the existing structure, other than the insertion of window openings. The existing metal frame, roof and walls would be retained and repaired. The provided structural report and addendum indicate that the metalwork is generally sound other than minor repairs due to corrosion and is capable of bearing the load of new cladding which would be applied in order to form the south and eastern walls of the dwelling. Insulation and internal walls would be self-supporting.
16. Overall, the existing frame of the building would not require reconstruction, and the structural reports indicate that it is in a robust condition and capable of accommodating the loadings that would result from the development. My own observations at my site visit do not lead me to question the findings of these reports, and there is no other substantive evidence before me to indicate that the building is otherwise of unsound construction.
17. While the proposal would require the construction of two external walls, the permitted development right does make provision for the installation of such walls, and it has been shown that the building could support these elements without the need for further structural strengthening. Overall, the level of external works proposed would remain within the scope of building works reasonably necessary to convert the building.
18. With regard to the internal works proposed, PPG advises that they are not generally development, and that it may be appropriate to undertake internal structural works, including to allow for a floor, insertion of mezzanine or upper floors, or internal walls, which are not prohibited by Class Q. Accordingly, the level of internal works proposed also do not amount to building work beyond those reasonably necessary to convert the building. Whether such works would meet the requirements of the Building Regulations is a separate matter, beyond the scope of this appeal.
19. Overall, I therefore conclude that the building is of sufficiently robust construction to allow for conversion and is capable of functioning as a dwelling.

² Hibbitt and another v SSCLG (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 Admin

The proposed building works would be reasonably necessary to convert the building. As a result, the proposed works would not exceed the limitations set out at Paragraph Q.1(i) of Part 3 of Schedule 2 of the GPDO.

Transport and highways

20. Plumstead Road is a narrow rural road edged with mature dense hedgerows and with narrow verges. The existing site access is via an unmade track along a field boundary. Although rough, the access track is passable by car.
21. Policy CT5 of the North Norfolk Local Development Framework Core Strategy ('NNCS') states that development proposals will be considered in the context of whether it provides for safe and convenient access on foot, cycle, public and private transport addressing the needs of all.
22. Plumstead Road has generally straight alignment to the west of the point at which the access track meets the road. However, this junction is at a point at which the road bends around an area of woodland to the south and is located close to the inside apex of this bend.
23. As a narrow rural road, I acknowledge that Plumstead Road may not be subject to heavy use, and its narrowness is likely to naturally limit the speed of many vehicles. Nevertheless, the existing mature hedgerows and road alignment means that for traffic exiting the lane, visibility to the right is severely restricted, with little warning possible of vehicles approaching from this direction. Visibility to the left is better, but a further bend in the road to the north-east also limits the distance from which approaching vehicles would be visible.
24. Given the low level of visibility available at the junction of the access and Plumstead Road, even if the road was not subject to heavy use, the potential for conflict between vehicles exiting the access and other road users would remain high and would pose a significant risk. I note the Highway Authority objected to the scheme on the basis of the poor visibility at the access.
25. I acknowledge that the access currently exists, and it is stated that it is used regularly by agricultural vehicles and that no accidents or incidents have occurred on this basis in recent years. Be this as it may, many agricultural vehicles are larger than those which would normally be expected to be associated with a residential property, and with elevated driving positions. Accordingly, the level of visibility in each case would likely differ, and it does not necessarily follow that the safe use of the access by agricultural vehicles means that it would also be safe for use in association within a residential use.
26. It is also stated that use of the access by agricultural vehicles would cease and an alternative access used. However, there is no mechanism before me which would prevent the use of the access by agricultural vehicles following the development, and in any event, such an arrangement would not overcome the inherent lack of visibility for drivers of smaller vehicles when using the access.
27. Although the level of use of the access in relation to single dwelling could be low, given the potential for conflict, the proposal would be harmful to highway safety.

28. For these reasons, I conclude that the proposal would not be acceptable with respect to transport and highways impacts, and Condition Q.2.(1)(a) of the GPDO is not satisfied.

Design and external appearance

29. The appeal site sits away from Plumstead Road within a landscape of agricultural fields and woodland. The character of the area is rural, however the agricultural landscape is punctuated by a variety of farms and groups of buildings such as that to the south-west of the appeal site.
30. NNCS Policies EN2 and EN4 require new development to be sympathetic to landscape character and be suitably designed for the context within which they sit.
31. The proposal would alter the character of the existing building by enclosing all four walls and introducing internal space which would be lit at night. It would be of a more domestic character than the existing relatively lightweight and visually recessive character of the building.
32. However, the proposed design would be reflective of the form of the existing building, with a material palette which would respect its metal construction. The original purpose of the building would remain clear and as a result the location of a dwelling within an area of agricultural land would not appear incongruous or unreasonably harmful, particularly given the existing character of the area.
33. The Council has also raised concern in relation to the extent of the domestic garden associated with the proposal, however the provided plans make no provision for external garden areas and the appellant has clarified that external space would be in the form of a covered patio within the footprint of the existing building. Should external areas be subsequently provided, they would be subject to separate planning control.
34. The proposal does not include any improvement to the existing access track, nor is any external lighting specified. Even if I were to agree that such works would further domesticate the building, they do not form part of the proposal which is before me.
35. For these reasons, I conclude that the proposal would be of an acceptable design and external appearance.

Siting and location

36. The Council has stated that the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwelling. This appears to be on the basis of its transport and highways impacts, and design and external appearance.
37. Although I have found that the proposal would be unacceptable with regard to its transport and highway impacts, it does not necessarily follow that the building itself is located such that its use as a dwelling be would impractical or undesirable, as it may be that an alternative access could be utilised.
38. As I have found the design and external appearance of the building would be acceptable, it follows that I do not consider that the location of the building would render its conversion undesirable for these reasons.

39. I therefore conclude that the siting and location of the building would be acceptable.

Other Matters

40. The effect of permitted development upon protected species is not specifically referred to in the GPDO. Although the Council has cited concerns in relation to the possibility of the building providing roosts for bats or birds, these are not directly related to siting, location or amenity, and these matters do not relate to the conservation of biodiversity for the purposes of the Natural Environment and Rural Communities Act 2006.
41. However, I also understand that the appeal site lies within the zone of influence for Broadland RAMSAR, Special Area of Conservation ("SAC") and Special Protection Area ("SPA"), Norfolk Valley Fens SAC, North Norfolk RAMSAR, SAC and SPA, The Wash and North Norfolk Coast SAC, and The Wash RAMSAR and SPA, which are European designated sites ("the European Sites").
42. New residential development is likely to have a significant effect on the European Sites through the cumulative effects of increased nutrients in the river system and increased recreational pressure. The Council has indicated that mitigation would be required.
43. The grant of planning permission under Article 3(1) of the Order is subject to the provisions of the Order and compliance with Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitats Regulations"). In effect, Article 3(1) of the Order provides a pre-commencement condition which must be met, where the development would affect a European Site. This includes a separate application to the Council under Regulation 77 of the Habitats Regulations to allow the Council to undertake an appropriate assessment and, dependant on the outcome, determine whether the scheme could be undertaken as permitted development under the Order.
44. It is not clear from the evidence which is before me whether an application has been made to the Council under Regulation 77, however it is possible that such an application could be made and subsequently approved had I been minded to allow the appeal. For these reasons, and as I am dismissing the appeal for other reasons in any event, there is no reason for me consider these matters further as part of this appeal.

Conclusion

45. The proposal would be a development of the type permitted in principle by Class Q and would satisfy the conditions and limitations of Paragraph Q.1. However, I have found that the transport and highways impacts of the development would be unacceptable and would not meet condition Q.2.(1)(a) of Class Q. Prior approval should not therefore be given.
46. For these reasons, and having regard to all matters raised, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR