



Appeal Decision

Site visit made on 17 December 2024

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 07 January 2025

Appeal Ref: APP/D2510/W/23/3331653

Dovecote Farm Yard, Barlode Drain, Midville, Lincolnshire, PE22 8HQ

- 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 MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by B Whitehead against the decision of East Lindsey District Council.
- The application Ref is S/120/00556/23.
- The development proposed is the change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the application form dated 14 March 2023 was *"Proposals seek to create a single dwellinghouse with 3 bedrooms and two single bedroom dwellinghouses."* Based upon the evidence before me, it would appear that the proposals were subsequently amended and sub-divided into two applications, an application under Class MA of the General Permitted Development Order (GPDO) relating to the conversion of an office to a single dwelling, and a separate application, dated 31 August 2023, made under Class Q of the GPDO for the conversion of an agricultural Nissan hut to two dwellings.
3. The appeal was accompanied by two sets of application forms and plans, as well as supporting documents, relating to the original submission for three dwellings. The submitted decision notice and appeal forms refer to the Council's application reference S/120/00556/23 and to the conversion of an office to a single dwelling. My decision is based upon this proposal only and not the separate application to convert the Nissan Hut to two dwellings. I have amended the description of the proposed development in the banner heading above accordingly.
4. The only red line site location plan submitted with the appeal is that which relates to the conversion of the Nissan Hut to two dwellings. However, I was able to understand from the other submitted drawings which building on the site the proposal relates to. As I am dismissing the appeal anyway it was not necessary to request the correct red line plan.

Main Issue

5. The main issue in this case is whether the proposal would fall within the provisions of permitted development under Schedule 2, Part 3, Class MA of the GPDO.

Reasons

6. Under paragraph MA.1(1)(b) development is not permitted unless the use of the building falls within one or more of the classes specified for a continuous period of at least 2 years

prior to the date of the application for prior approval. The specified classes include Class E of the Use Classes Order, which includes office use.

7. There is disagreement between the main parties regarding the existing lawful use of the site. Both parties agree that planning permission was granted in 1994 for change of use of existing agricultural yard and buildings to builders yard and office. However, I have not been provided with a copy of that planning permission or any plans submitted with it identifying the buildings and land to which that permission relates.
8. In the Council's view the appeal building and its curtilage do not fall within Use Class E, and the office does not form part of a separate planning unit to the approved builders yard and office. Any office use of the site is considered by the Council to be ancillary to the builders yard. The Council state that records show the site was occupied by Cotts Builders and subsequently by the applicant's business, Whitehead and Son Builders. I have not been provided with copies of the records that the Council refer to. I note that the site plan submitted is labelled Cott Builders, but it is unclear from the information before me which part of the site this relates to.
9. The Appellant claims that the building, or the part of it to be converted, is an office and is a separate independent planning unit not connected to the approved builders yard and adjacent builders workshop. However, if a separate office use had operated from the site, there would usually be some evidence of this, such as a separate address, a letting agreement, company records, utility bills and business rates. No such evidence has been submitted.
10. Based upon the submitted floor plans, the building is predominantly used for storage and has only a small ground floor office to the front measuring 19.7sqm. The appellant states that only change of use of the office is sought although the plans show the whole building would be converted to a 4 bedroom dwelling. The office part of the building is proposed to become a ground floor bedroom and would not on its own meet the minimum floor space requirement for a new dwelling. The existing floor plans show that the office is internally linked to the remainder of the storage building and the submitted site plans show that the whole site is served by a single vehicular access.
11. It is not for me to determine the lawful use of the building as part of this appeal. If the appellant wishes to establish this, they can apply to the Council for a Lawful Development Certificate and submit the relevant evidence to support their claim. Based upon the limited evidence before me I cannot be certain that the building in question has a lawful Class E use or that the requirements of Class MA.1 of the GPDO are met.
12. Furthermore, the proposed plans include the installation of new windows and doors, which amount to building operations. Unlike for example Class Q, which permits development consisting of a change of use and building operations reasonably necessary to convert the building in question, Class MA does not permit building operations to facilitate a change of use. Consequently, the extent of the development proposed goes beyond that allowed under Class MA.
13. I therefore conclude that the proposal when considered as a whole would not constitute permitted development as defined by Class MA of the GPDO. Accordingly, there is no need for me to go on and consider whether or not prior approval should be required and granted having regard to the impacts of the development set out in Class MA.2(2), as it would not alter the outcome of the appeal.

Conclusion

14. For the reasons given above, the appeal is dismissed.

R. Bartlett Inspector