
Appeal Decision

Site visit made on 12 September 2016

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10th October 2016

Appeal Ref: APP/J0405/W/16/3152917

Vicarage Farm, Soulbury Road, Stewkley, Buckinghamshire LU7 0DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Paul Smith against Aylesbury Vale District Council.
 - The application Ref 15/03773/APP is dated 5 November 2015.
 - The application sought planning permission for the change of use from stable block to residential annexe without complying with a condition attached to planning permission Ref 04/02599/APP, dated 10 December 2004.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall not be used for any purposes other than as ancillary to the residential accommodation presently on site as a single dwelling unit and not as a separate unit of accommodation in its own right.
 - The reason given for the condition is: The proposed annexe has no independent curtilage or car parking provision and is therefore not acceptable as a separate dwelling unit and to comply with Policy RA13 of Aylesbury Vale District Local Plan.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from stable block to residential annexe at Vicarage Farm, Soulbury Road, Stewkley, Buckinghamshire LU7 0DL in accordance with the application, Ref 15/03773/APP, dated 5 November 2015 without compliance with condition 2 previously imposed on planning permission 04/02599/APP.

Main Issue

2. The main issue is whether the condition is necessary having particular regard for its stated purpose of ensuring that the converted stable block is not used as a separate unit of accommodation.

Reasons

3. Planning permission 04/02599/APP was for the conversion of a stable block to form a residential annexe. Condition 2 appears to have been drafted to prevent its occupation as an independent dwelling.
 4. However, given that the original development was for a residential annexe (associated with the main dwellinghouse), to occupy the annexe independently would require planning permission in its own right. Consequently, condition 2 is not necessary.
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5. Removing the condition would not permit the annexe to be used as an independent dwelling. That could only be achieved by seeking permission for a change of use from a residential annexe to a dwelling which is not the proposal before me.
6. I acknowledge that the Council would have refused the application as a result of overlooking of the garden and residential accommodation. However, as the removal of the condition does not change the status of the building as an annexe, it is not necessary for me to make a finding on this issue.
7. The submitted Unilateral Undertaking is aimed at ensuring that the annexe is not sold off separately from Vicarage Farm. However, this undertaking only takes effect on the issuing of planning permission by the Council. Notwithstanding that, the Undertaking does not alter the status of the building as an annexe.

Conclusion

8. For the reasons given above I conclude that the appeal should be allowed.

Chris Forrett

INSPECTOR