
Appeal Decision

Site visit made on 24 January 2017

by David Cliff BA Hons MSc MRTPI

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

Decision date: 21 February 2017

Appeal Ref: APP/A3655/W/16/3159698

**Day Dawn Nurseries, Deep Pool Lane, Station Road, Chobham, Surrey
GU24 8AS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr and Mrs R Barnett against the decision of Woking Borough Council.
 - The application Ref PLAN/2016/0746, dated 27 May 2015, was refused by notice dated 19 August 2016.
 - The development proposed is the 'change of use of an agricultural storage barn and associated building operations to provide a single dwellinghouse'.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the Order') for the change of use of an agricultural storage barn and associated building operations to provide a single dwellinghouse at Day Dawn Nurseries, Deep Pool Lane, Station Road, Chobham, Surrey GU24 8AS, in accordance with the terms of the application PLAN/2016/0746, dated 27 May 2015, and the plans submitted with it.

Procedural matters

2. The Council has provided clarification in its appeal statement that the reference to paragraph Q.2(2) of the Order should in fact read as Q.2(1) as the application the subject of this appeal was development under Class Q(a) together with development under Class Q(b). I have considered the appeal on this basis.

Main Issue

3. The main issue is whether the proposed development would fall within development permitted by Class Q of the Order, with particular regard to whether or not the proposed development has already begun, taking account of the provisions of Q.1(i) and Q.2(1) and section W of the Order.

Reasons

4. Paragraph Q.2(1) of the Order requires that for Class Q(a) together with Class Q(b) development, such development is permitted subject to the developer first applying to the local planning authority for a determination as to whether
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the prior approval of the authority will be required. Section W of the Order requires that the development must not be begun before the receipt by the applicant from the local planning authority of a written notice that such prior approval is not required, or giving their prior approval.

5. The Council considers that development to the extent reasonably necessary for the building to function as a dwellinghouse has already begun and that such development falls outside that exempted by Section 55(2)(a) of the Town and Country Planning Act 1990 ('the Act') as it materially affects the external appearance of the building.
6. The appellant argues that the works which have already taken place were repair works reasonably necessary for the general maintenance and improvement of the building and do not form part of the application.
7. I observed at my site visit that the works carried out to the exterior of the building include the replacement of timber cladding on the front and rear elevations, the replacement of existing windows in new openings and repairs to the existing roof. Whilst the replacement cladding clearly looks newer than the previously existing external cladding as evidenced in the photographs provided by the appellant, this does not amount to a material change to the external appearance of the building. The alterations to the window openings are also, in my judgement, not so significant to result in a material change to its external appearance. I note that the works carried out do not mirror those works proposed in the application drawings which include the insertion of an additional windows and doors. Internal ply cladding and a waterproof membrane has been applied to the interior along with other repair and improvement works.
8. From my observations at my site visit and information provided with the appeal, it appears to me as a matter of judgement that the works fall within the exception provided for in Section 55(2) (a) as they comprised operations for the maintenance, improvement and alteration of the building which either affect only the interior of the building or do not materially affect the external appearance of the building.
9. On this basis the works do not amount to development as defined by the Act. From my observations, it also does not appear to me that there has been any implementation of a residential use of the building. I have proceeded to determine the appeal on this basis.
10. Based on the existing situation, the works required to convert the existing building to a dwellinghouse appear to be reasonably necessary and do not go beyond the scope of works described in paragraph Q.1(i) of the Order.
11. The Council refers to a recent High Court judgement¹ relating to new structural elements and rebuilding. However, I consider this has limited relevance to this appeal, as no new structural elements are proposed as part of the application. As outlined above I am satisfied that the works previously carried out were for the repair and improvement of the existing building and do not amount to the implementation of the proposed conversion scheme.

¹ Hibbit, and another v Secretary of State for Communities and Local Government , and Rushcliffe Borough Council [2016]

12. Other than those matters considered above, the Council is satisfied that both the proposals satisfy the requirements and criteria of Class Q in all other respects. I see no reason to disagree with the Council's conclusion on such matters.

Conclusion

13. The proposed development would comply with the permitted development criteria set out in Class Q.1 of Schedule 2, Part 3 of the Order and would not require prior approval under Class Q.2. As such it would be permitted development.
14. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

15. The Council has suggested a condition requiring the submission and approval of a scheme to deal with contamination. The reason for this condition as stated by the Council refers to the possibility of contaminated land. However, the proposal is for the conversion of an existing building which would be unlikely to involve significant ground disturbance. Taking into account the history of the building I agree with the appellant that the contamination risks are low. I therefore do not consider this condition to be necessary.
16. The development, in combination with other developments, would be likely to have a significant effect upon the Thames Basin Heath Special Protection Area. Regulation 73 of the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) states that it is a condition of any planning permission granted by a general development order that development must not be begun until the developer has received written notification of the approval of the local planning authority under regulation 75 (approval of the local planning authority). Regulation 3(1) of the Order makes clear that development granted by the Order is subject to the provisions of regulations 73 to 76 of the Habitats Regulations.
17. This matter has not been resolved by the parties but can be dealt with outside of this appeal. As this matter is provided for through Regulation 73 of the Habitats Regulations (and mindful of the Planning Practice Guidance which states that conditions requiring compliance with other regulatory requirements will not meet the test of necessity) there is no need to duplicate this condition in my decision. However, the applicant will need to discharge this matter before commencing the development.
18. Finally, Class Q development is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

David Cliff

INSPECTOR