



Appeal Decision

Site visit made on 3 December 2019

by **B.S.Rogers BA(Hons) DipTP MRTPI**

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

Decision date: 09 December 2019

Appeal Ref: APP/V1505/X/19/3220749

Hereford House, Lower Dunton Road, Dunton, Brentwood, Essex, CM13 3SN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Gary Tregunno against the decision of Basildon District Council.
 - The application Ref: 18/01500/LDC, dated 8 November 2018, was refused by notice dated 17 December 2018.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is to establish the lawfulness of an existing use of an agricultural building as a dwellinghouse.
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Decision

1. The appeal is dismissed.

Reasons

2. The appeal property is a former agricultural building, which was converted to a dwelling in 2016. Since then, it has suffered serious fire damage.
3. On 10 July 2015, the appellant made a prior approval application (Ref: 15/00922/PACU) under Class Q of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development)(England) Order 2015 [GPDO]. The Local Planning Authority (LPA) asked for further information before validating the application on 20 July. This led to a dispute as to the timing of the relevant 56 day period, as set out in paragraph W(11) of the GPDO. The LPA responded within 56 days of 20 July, indicating that prior approval was refused. However, the appellant claims that, as no written notice was received within 56 days of the **original** receipt of the application by the LPA, permission for the development ensued.
4. Before looking into that matter, I first need to examine whether the development in fact fell within the scope of Class Q, as it stood when the development was carried out. This permitted "*Development consisting of- (a) 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) of the Schedule to the Use Classes Order; and (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.*"

5. The Council indicated in its decision notice that, as works of development had taken place on the building before the application was made, prior approval was not possible. However, these were said by the appellant to be works of repair and maintenance and therefore not within the statutory definition of development. On the very limited information before me, I am unable to determine the extent and nature of these works.
6. The Council also indicated in its decision notice that the proposed structural and other internal works would go beyond the scope of Class Q, a matter disputed by the appellant.
7. However, I do not need to determine any of the above disputed matters as an examination of the drawings that formed the basis of the prior approval application demonstrate clearly that the development would fall foul of Q.1(g), which states that "*Development is not permitted by Class Q if- (g) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point*". The drawings clearly show two very substantial roof extensions, one a raised gable and the other a raised lantern over the central courtyard. If any of the limitations is exceeded, the whole development is unlawful, not just the elements in excess of the stated limits. On this basis, the development did not fall within the scope of Class Q and, accordingly, planning permission was required.
8. I can give little weight to a claim that an officer of the Council told a neighbouring resident that the development was lawful, given that there is a formal procedure for establishing lawfulness. Furthermore, the Council's apparent failure to initiate enforcement action when it was made aware of the commencement of the conversion works is of little significance in establishing the lawfulness of the development.
9. I conclude that the Council's decision to refuse the application for a Lawful Development Certificate was well-founded and the appeal therefore fails.

B.S. Rogers

Inspector