
Appeal Decision

Site visit made on 20 November 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2020

Appeal Ref: APP/D0515/W/19/3233540

Stackwell Forge, Clough's Bridge, The Bank, Parson Drove, Cambridgeshire PE14 4JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr P Bodger against the decision of Fenland District Council.
 - The application Ref F/YR18/1073/PNC07, dated 19 November 2018, was refused by notice dated 21 January 2019.
 - The development proposed is: change the use of the building from B1 to C3 and detailed drawings and reports are attached to this application.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has refused the prior approval application since it considers that that the proposal does not comply with the provisions of Class PA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) which permits the change of use of premises in light industrial use B1(c) to C3 – dwellinghouses.
3. Should I find that the requirements of the Order under section PA.1 are met I will consider the further prior approval matters under section PA.2.

Main Issue

4. This is whether the proposed change of use benefits from the permitted development rights within the Order as amended.

Reasons

5. Stackwell Forge lies close to the B1166 Road, a short distance from the settlement of Parson Grove. The property comprises the original store and workshop, a 19th Century red brick building, now a house, and adjacent to it, a modern steel framed workshop building (the workshop). Both buildings are accessed via a gated driveway leading from Clough's Bridge. The original building and bridge are Listed Buildings.
6. Prior approval for the change of use of the workshop to a 4 bedroom dwelling has been refused on grounds that the activities carried out within the building amount to a B2 General Industrial Use, and also that it lies within the curtilage of a listed building. Should I find either of these to be the case the change of

use of the workshop to a dwelling would require planning permission and not benefit from the permitted rights under the Order.

The use of the building

7. On my site visit I called at the appellant's property and went inside the workshop. The appellant's business includes the manufacture of architectural ironmongery such as traditional iron railings. It was clear that this work involves a significant element of cutting of steelwork, welding and finishing of the products.
8. The definition of Class B1 use is contained in the Town and Country Planning (Use Classes) Order 1987 (as amended). The relevant part of the definition is c) any industrial process which can be carried out in any residential area without causing detriment to the amenity of the area by reason of noise, vibration, smell, fume, smoke, ash, dust or grit.
9. The workshop building is not close to residential properties other than the appellant's, and there have been no complaints regarding the operation of the business during the time it has operated from the site. The appellant also carried out the business previously from 2 other locations within residential areas, without complaints being raised by neighbours. The appellant does not employ any other persons and is away from the workshop for a significant amount of the time at locations where his products are to be fitted. Although the workshop is a substantial building, the business is small in scale relative to many other businesses which would come within the B2 General Industrial Use Class.
10. Whilst the appellant may be able to carry out his business without giving rise to complaints from neighbours in some circumstances, this of itself is not determinative that the business comes within Use Class B1. In my view the nature of the business is one which involves industrial processes which could, in some situations, give rise to adverse effects on the living conditions of others and therefore is not suitable to be carried out in any residential area.
11. The Council advises me that there is no record of any B2 use of the workshop having been authorised, and a 2003 application for a Lawful Development Certificate to establish B1 use of the workshop was refused. However, there is no suggestion that the appellant's current use of the workshop building is unlawful. These matters have no bearing on my decision which is based solely on whether the appellant's current business can reasonably be considered as falling under Class B1.
12. I therefore find that the appellant's business constitutes a Class B2 use.

The Curtilage of the Listed Building

13. The question to be addressed is only whether the workshop building lies within the curtilage of a listed building. In considering this aspect, I have considered the statutory listing, the physical layout of the site, the use of the buildings and ownership.
14. The statutory listing shows that the original store and workshop building was Listed Grade II in 1983. There is no reference in the listing details to the extent of any yard or grounds, or boundary walls, associated with the building. In terms of the layout of the site today, the workshop is situated in close

proximity to the listed building, and the site is bounded on 2 sides by drains, and to the west by a tall hedge. The boundary to the south with open land appeared to be approximately marked by a steel gate, and to the north east the site connects with Clough's Bridge.

15. Within the site itself, no fence or other indication of a boundary exists between the two buildings. In terms of use, the appellant lives in the listed building and carries out his business within the workshop. I am not told that at present the site is owned by anyone other than the appellant. I have no evidence before me as to the ownership of the whole site at the time of listing, although the 1988 planning application for the implement store suggests that the whole site would have been owned by the Drainage Board since the accompanying plan shows the proposed building and the listed building within the boundary of a single site.
16. The absence of an application for Listed Building consent at the time of the 1988 planning permission is not a factor in this matter since the new building was not works directly affecting the listed building. Similarly, the legal case which I have been referred to covers rather different matters to those in the appeal. In the context of the proposal, whether the workshop existed at the time of listing does not determine the extent of the curtilage of the listed building, which has to be considered separately given the factors I mention above.
17. The appellant has submitted a screenshot of the constraints identified by the Council at the time of the prior notification, which states 'Grade II LB – adjacent and the bridge'. This is factually correct, however it does not confirm whether or not the workshop is within the curtilage of the listed building.
18. The above matters indicate that, as far as can reasonably be determined, the workshop lies within the curtilage of a listed building.

Conclusion

19. For the reasons given I conclude that the proposals are not permitted development under Class PA, Part 3, Schedule 2 of the GDPO (as amended) and would require the express grant of planning permission rather than consent via the prior approval process.
20. The appeal is dismissed.

Tim Wheeler

INSPECTOR