



Appeal Decision

Site visit made on 18 August 2020

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2020

Appeal Ref: APP/J0405/W/20/3247461

The Oaks, Stratford Road, Whaddon, Buckinghamshire MK17 0ND

- 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 Simon Hill against the decision of Buckinghamshire Council.
 - The application Ref 19/02345/COUAR, dated 19 June 2019, was refused by notice dated 21 August 2019.
 - The development proposed is to convert the existing metal building into 4 number residential dwellings, external appearance to be insulated metal sheeting to external walls and roof.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On the 1 April 2020, Aylesbury Vale District Council (AVDC) merged, along with other Councils, into a new single Unitary Authority called Buckinghamshire Council. Whilst the original decision was issued by AVDC, the authority's new name has been referred to in the banner heading above.

Main Issue

3. The main issue is whether the proposal is permitted development.

Reasons

4. Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of the change of use of a building (and any land within its curtilage) from an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. Class Q also allows any building operations reasonably necessary to convert the building.
5. The Council have set out that they consider that the building operations required would go beyond what could be reasonably considered to be a 'conversion'. Additional concern is raised over the curtilage of the site. In both of these respects, the Councils view is that the proposal would not be 'permitted development'.
6. Paragraph Q.1.(i) places restrictions on the building operations which can be undertaken. It states that development is not permitted if it would consist of building operations other than: (i) the installation or replacement of — (aa)

- windows, doors, roofs, or exterior walls, or (bb) water, drainage, electricity, gas or other services, to the extent reasonably necessary for the building to function as a dwellinghouse; and (ii) partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1(i)(i).
7. Paragraph 105 of the Planning Practice Guidance (PPG)¹ provides further clarification. The guidance states that it is not the intention of the permitted development right to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right.
 8. From the evidence before me, the proposal includes the removal of all of the cladding to the building so that the only remaining element of the building would be its steel framework. The proposal would then install entirely new cladding to all sides and the roof of this framework. Whilst I accept that substantial works could fall under the scope of Class Q, they nonetheless presuppose that the works comprise a "conversion". I am also conscious of the Hibbit² case as to whether a proposal would amount to a conversion or a rebuild.
 9. In this case, the building works outlined above include the complete removal and replacement of all walls and the roof. To my mind, this goes well beyond what could reasonably be described as a conversion and therefore the works would not be 'permitted development'.
 10. Turning to the curtilage matter, the Councils' delegated report and statement contradict one another, in that the delegated report suggests the curtilage complies with the GPDO and the appeal statement says it is 2 square metres too large.
 11. If I accept the delegated report calculations, the Councils' concern appears to be whether other land would be, in effect, part of a residential curtilage. In this respect the Councils' main concern relates to the areas of land to the north and south of the building and to the west of the parking spaces. Concern is also raised that a strip of land in-front of the parking spaces should also be included to enable access to them from the existing access track.
 12. From my site visit I saw that the land to the north of the building consists of an area of trees and is not currently farmed a such. In that respect, the development would not change this situation. This would also be the case in respect of the land to the west of the parking spaces. Furthermore, this area is not included within the suggested residential curtilage and therefore any subsequent change of use will no doubt need the benefit of planning permission.
 13. Whilst the area to the south of the building is currently open, from my site visit it was not actively farmed either. Therefore, in that sense, the same principle outlined above applies.

¹ Reference ID: 13-105-20180615- Revision date 15 06 2018

² Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin).

14. In terms of the strip of land required to gain access to the parking spaces, I consider this would be, in effect, part of the overall access to the site and would not necessarily form part of the residential curtilage as such.
15. I also have noted the amended red-line plan which does not include the parking spaces for dwellings 1 and 2. Whilst it is not clear whether the Council sought to address this issue, or the matters relating to curtilage, given my conclusion that the works to the building itself are not permitted development, this is of little consequence to my decision.

Other matters

16. The Council have also raised concern over the resultant appearance of the proposal on the character and appearance of the area and in particular the use of uPVC windows and doors and contrasting horizontal cladding. However, whilst I have some concern over the proposed use of uPVC, I am conscious that these are related to matters of prior approval. Given my conclusions above, there is no need for me to consider this matter any further.

Conclusion

17. For the reasons given above, I conclude that the works necessary to create the dwelling from the building on site would not fall within the scope of that permissible under Part Q(b) and therefore would not be permitted development. Therefore, the appeal must be dismissed.

Chris Forrett

INSPECTOR