
Appeal Decision

Site visit made on 22 September 2020

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2020

Appeal Ref: APP/J1535/W/19/3238266

The Manor House, Manor garage/workshop, Gravel Lane, Chigwell, Essex, IG7 6DQ

- 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 W Miller against the decision of Epping Forest District Council.
 - The application Ref. EPF/0953/19, dated 8 April 2019, was refused by notice dated 5 June 2019.
 - The development proposed is the change of use of a light industrial unit (Class B1(c) to one dwelling (Class C3).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed change of use accords with the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), as amended, so as to be 'permitted development'.

Reasons

Background

3. The material change of use of land or buildings is normally development that requires planning permission. However, the GPDO generally permits specific development so that express permission is not needed. Part 3 of Schedule 2 of the GPDO deals with changes of use and Class PA permits the change of premises in light industrial use to dwellinghouses but section PA.1 sets out criteria where development is not permitted. Relevant to this appeal are sections PA.1(b) - if the building was not used solely as light industrial use on the 19 March 2014 (amongst other aspects) and PA.1(h) if the building is a listed building or is within the curtilage of a listed building.
4. In this case the Council's objection relates to whether the building in question lies within the curtilage of a listed building and it disputes that the building was in light industrial use on the 19 March 2019 (now referred to as the relevant date).

Curtilage of a listed building

5. The Council provides a copy of the description of the listed building in question which is a barn approximately 10 metres to the north of the Manor House. I was only able to see the relationship of a small part of the appeal building with the listed barn from the road at the visit but from this and the submitted site plan showing the physical layout of the buildings and the site, together with aspects of ownership and function, I am satisfied that the appeal building lies within the curtilage of the listed building.
6. The appellant claims that the building is not curtilage-listed as it was erected post 1st July 1948, however the aerial photograph and map submitted in support of this do not show clear detail and I am unable to form a definitive view on this aspect. In any event even if the building was erected post 1948 that does not prevent it from being located within the curtilage of the listed principal building.

Use at 19 March 2014

7. There is no specific evidence before me that shows the use of the building on the relevant date but there is reference to the period before and after. The Council refers to an investigation started following a complaint made in early 2014 that the building was being used for car repairs. This led to the issue of a formal enforcement notice against this use in September 2016. Although the main parties agree that a car repair use has now ceased, the issue is what use existed at the relevant date. Moreover, it is generally accepted that a car repairs use is unlikely to fall within Class B1(c)¹ because the nature of the operation is not one that can normally be undertaken in a residential area without causing detriment. The Council also refers to a prior approval application made in 2017 on the basis that the building was then in agricultural use.
8. On the evidence before me I conclude that the building was not solely in use for light industrial purposes on the 19 March 2014.

Conclusion

9. As I have found that the appeal building is within the curtilage of a listed building, and that it was not solely in light industrial use on the 19 March 2014, parts (b) and (h) of PA.1 apply and so the proposal does not meet the terms of Class PA and is not permitted development.
10. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR

¹ As defined in the Town and Country Planning (Use Classes) Order 1987, as amended.