



Appeal Decision

Site Visit made on 19 January 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2021

Appeal Ref: APP/J0405/W/20/3258309

Deans Poultry Farm, South End Lane, Northall LU6 2EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3 and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Peter Dean against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 19/04439/COUAR, dated 17 December 2019, was refused by notice dated 11 March 2020.
 - The development proposed is determination as to whether prior approval is required in respect of transport & highway impact, noise, contamination risk, flooding and locational considerations for the conversion of agricultural barn into two dwellinghouses (Class Q(a)) and in relation to design and external appearance of the building (Class Q(b)).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development from the appeal form. It adequately and simply describes it instead of the description given on the application form.
3. There is disagreement between the main parties as to the lawful planning status of the building subject of the appeal. Notwithstanding that I must conclude such status on the balance of evidence, it is not for me, under a section 78 appeal, to determine whether or not it is lawful. To that end it is open to the appellant to apply for a determination under sections 191/192 of the Act and my determination of this appeal under s78 does not affect the issuing of a determination under s191/192 regardless of the outcome of this appeal.

Background and Main Issue

4. Schedule 2, Part 3, Class Q of the GPDO permits development consisting of Q(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 of the Use Classes Order, and Q(b) building operations reasonably necessary to convert the building.
5. Schedule 2, Part 3, Section W of the GPDO sets out the prior approval process. It states that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with any conditions,

limitations or restrictions specified as being applicable to the development in question.

6. It was on this basis that the Council refused to grant prior approval for the scheme under Schedule 2, Part 3, Class Q of the GDPO as it determined that the operations in the construction of the building are unlawful, contrary to Article 3, paragraph 5(a).
7. The main issue is whether the proposed development would be granted planning permission by Article 3 and Schedule 2, Part 3, Class Q of the GPDO, with particular regard to Article 3 paragraph 5(a).

Reasons

8. The appeal site forms part of a former poultry farm last used in 2002 and consists of a single elongated building that sits amongst a number of buildings in a uniform arrangement. The site is surrounded by mainly open fields. There are residential properties opposite in an otherwise rural setting.
9. The building has a solid floor with a portal timber frame, internal partition walls, timber cladded external walls and a metal roof. Based on the evidence before me and from my observations during the site visit it is evident that fresh building works have taken place to the building and its appearance contrasts with the other buildings on site which are in various states of disrepair.
10. Whilst the building has not changed in terms of height or floor area, the works undertaken include a replacement roof; removal of some of the portal frame; new internal partition walls; new studwork and external cladding panels; rebuilding of areas of the existing plinth; and a rebuild of the north east elevation including a new plinth, studwork and external gable wall. The appellant describes the works as maintenance and improvement of the building and contends they do not materially alter the external appearance of the building.
11. I acknowledge that works to the interior of the building do not constitute development as set out in Section 55(2) of the Town and Country Planning Act (1990) (the Act) as they would only affect the interior of the building. I also note that complete demolition of the building has not taken place. However, very little of the original building remains: essentially only the floor slab, sections of the portal frame and plinth and a small section of studwork. The scale and amount of demolition is significant, and these works when taken into consideration with the building operations carried out including new walls, roof, gable end and a new plinth to the north east end are so extensive that they go beyond the normal understanding of maintenance, improvement or alteration.
12. I accept that the removal of defective items is often required for improvements and alteration, but it is also not unreasonable to expect these improvements or alterations to take place once a defect has been identified in order to maintain the integrity of the building. It is not the case in this particular regard, as based on the evidence before me, the operations have been undertaken as one single project and amount to a substantial re-build of the building.
13. Whilst the building previously was clad in timber panels it is evident that it included large ventilation holes and other openings and removable panels in the north eastern gable end. There were also ventilation ducts on the roof. These features no longer form part of the building with the exception of a small

number of high-level openings and a door. I acknowledge that the site is not readily visible from the public realm, but nevertheless the development has, in my view, materially altered the external appearance of the building. Moreover, there is no substantive evidence before me to suggest that these alterations have been undertaken for the purposes of agriculture.

14. As the works carried out go beyond the normal understanding of maintenance or improvement and they have materially affected the external appearance of the building I find, as a matter of planning judgement, that the works are not small scale but rather constitute development as set out in Section 55(2) of the Act, and it has not been reasonably demonstrated that the building is lawful. As such I conclude that the proposal is not permitted development under Article 3 and Schedule 2, Part 3, Class Q of the GPDO.
15. The appellant has referred to a number of judgements. However, in all cases they set out that demolition, maintenance, improvement or other alterations are questions of fact and degree and thus it is a matter of judgement for the decision maker to decide where the line is drawn.
16. I note the Inspector's findings in respect of the previous appeal. Whilst I have not come to the same conclusion as him in respect of the roof and external cladding, I am not bound by his findings or decision. The previous Inspector mainly considered the appeal on the basis of the works reasonably necessary to convert the building to a dwelling, whereas the main issue in this case is whether the operations undertaken in the construction of the building are unlawful. As such, I do not regard the previous appeal decision to be directly comparable to the scheme subject of this appeal. I have considered the appeal on the basis of its individual merits and the evidence before me and reached a conclusion that the works carried out go beyond the normal understanding of maintenance, improvement or alteration and therefore amount to development.
17. The appellant has made reference to a number of appeal decisions. In respect of the Sturminster appeal¹ the case hinged on the creation of a new floor which the Inspector concluded did not amount to development as it only affected the interior of the building. In the case of this appeal and the other appeals and based on the limited evidence before me I am not persuaded that they are comparable to the scheme before me. They do not lead me to reach a different conclusion that the appeal should be dismissed. In any event every appeal must be considered on its own merits, as I have done in this case.

Other Matters

18. I note the conclusions of the Structural Report. However, its findings do not lead me to reach a different conclusion in respect of the appeal.
19. Whilst the proposal may satisfy matters in respect of highway impacts, noise contamination or flood risk they do not weigh in favour of the proposal given my conclusion in respect of the status of the building.
20. Whether or not the Council has served an enforcement notice is not a matter for me in this appeal and I have not taken this into account in coming to my decision.

¹ APP/N1215/W/17/318230

Conclusion

21. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR