



Appeal Decision

Site Visit made on 21 September 2021

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2021

Appeal Ref: APP/W0530/X/21/3274946

Heathfield House, Hurdles Way, Thriplow, Duxford, CB22 4PA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Heathfield House Cambridge Ltd against the decision of South Cambridgeshire District Council.
 - The application ref 21/00735/CLUED, dated 17 February 2021, was refused by notice dated 11 May 2021.
 - 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 erection of air conditioning units and intake/ extraction flues on existing building.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. For the avoidance of doubt, the planning merits of the existing development are not relevant, and they are not therefore an issue for me to consider, in the context of an appeal under section 195 of the Town and Country Planning Act 1990, as amended, which relates to an application for an LDC. My decision rests on the facts of the case and on relevant planning law and judicial authority. The burden of proving relevant facts rests on the appellants and the test of evidence is made on the balance of probability.
3. It follows that although several interested parties have made comments on the case, as they relate to matters such as noise and disturbance and the impact of the development on the character of the building, these do not fall to be considered in my determination of the appeal.

Main Issue

4. The main issue is whether the Council's decision to refuse the application for an LDC was well-founded.

Background

5. The appellants submitted a Planning Statement with their application to the Council which describes the air conditioning units (AC units) which have been installed on the east and west sides of the building. The AC units are in situ and all have been screened by what appears to be woven panels as opposed to the bamboo screening which is shown on the plans which accompanied the application.

6. The Planning Statement also includes a plan showing the flues which have been installed, along with the locations of other flues which are described as 'existing flues still in place'. There are currently more than nine flues on the building, but I have regarded the appeal as relating only to the nine flues marked in green on the plan which reflects the approach taken by the Council.

Reasons

7. The appellants set out on their application form that the grounds on which they have sought a certificate are that the air conditioning units and the intake/extraction flues are 'permitted development' by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 7 Class I (Class I of the GDPO).
8. Class I of the GDPO covers developments relating to an industrial process and Class I(a) specifically relates to the installation of additional or replacement plant or machinery. The parties are agreed that the building is used for light industrial purposes and that the development which has been carried out falls to be considered under Class I(a). The dispute between them is whether or not the development has materially affected the external appearance of the premises of the undertaking concerned. In order to constitute 'permitted development' the works are required not to materially affect the external appearance.
9. Heathfield House is predominantly single storey building occupying part of a larger site. Although part of the space in front of the building as it faces the roundabout off the A605 is laid out as car parking this has a limited effect on the clear views of the building from the public domain. A series of loading bays are also attached to the east side of the building.
10. Heathfield House also lies close to the boundary with Hurdles Way on its west flank and the open mesh fencing render this part of the building clearly visible between trees from the adjacent footpath.
11. The flat terrain of the area also results in the roof of the building being visible in long views and the crown roof design is such that flues and other similar plant appear above the edges of the roof.
12. The AC units on the west flank are clearly visible in the public domain. As a result of their position forward of the west face of the building and siting between window openings the AC units disrupt the strong rhythm of brickwork and window openings on this part of the building. Whilst the east elevation of the building is not so publicly visible or extensive as the west side as a result of the presence of the loading bays, and the regimented appearance is not so evident, the AC units sit forward of the building and have a screening effect on the layout of the windows.
13. Turning to the flues, four are positioned within the roof slope on the east side of the building. Whilst they read against the backdrop of the tiles their size, shape, and finish result in them affecting the overall appearance of the roof. Similarly, the other five flues are on the flat roof, appear above the highest part of the building and against the sky, thus, they also affect the appearance of the roof.
14. Drawing all of these strands together, the development which was the subject of the application to the Council has a material effect on the external

appearance of the premises of the undertaking concerned. Consequently, the development does not constitute permitted development under Class I of the GDPO.

15. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the erection of air conditioning units and intake/ extraction flues at Heathfield House, Hurdles Way, Thriplow, Duxford was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Sarah Dyer

INSPECTOR

