
Appeal Decision

Site visit made on 18 January 2022

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th January 2022

Appeal Ref: APP/E2734/W/21/3284751

Artists Retreat, Trapping Hill, Lofthouse HG3 5SE

- 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(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Mr Peter Galvin against the decision of Harrogate Borough Council.
 - The application Ref 21/02595/PNH, dated 10 June 2021, was refused by notice dated 27 July 2021.
 - The development proposed is Prior Approval for a proposed change of use from Studio (Use Class B1(a)) to residential dwelling (Use Class C3) to Barn at Trapping Hill, Lofthouse, Pateley Bridge, HG3 5SE.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the proposal has been altered from the application form to the decision notice. That on the application form adequately describes the proposal.

Preliminary Matters and Main Issue

3. Under Article 3(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (GPDO) planning permission is granted for development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a)(offices) of the schedule to the use classes order, to a use falling within Class C3 (dwellinghouses) of that schedule.
4. Paragraph W.(3) of Part 3 states that the local planning authority may refuse an application where, in the opinion of the authority (a) the proposed development does not comply with, or (b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with any conditions, limitations or restrictions relevant to that part of the order. The Council consider that insufficient information has been provided and this therefore forms the main issue.
5. Although changes have since been made to the GPDO transitional and saving provisions are in place.

Reasons

6. The building, which is located in a pleasant location on the hillside above Lofthouse within the Nidderdale AONB has a reasonably extensive recent planning history.
7. The evidence indicates that planning approval was granted on appeal for the conversion and extension of the barn to form an artist's studio in October 2007. It is suggested within the evidence that the property was converted to this use in line with the permitted scheme.
8. It is further stated that the property has operated in accordance with the approved scheme from the date of implementation and the lawful use of the property is therefore an artist's studio.
9. The existing plans show the ground and first floors set out as studio space. However, having viewed the internal arrangement at the site, the existing plans do not bear relation to the situation within the building, which is instead set up in line with the proposed plans.
10. The first floor forms a bedroom while the ground floor is set up as a living room adjacent to the bathroom and kitchen area which is shown on both the existing and proposed plans. There is no commentary or clarification on this matter within the evidence.
11. There is disagreement between the parties as to whether an artist's studio can be defined as an office and therefore fall under the B1(a) use class. However, even if I were to consider the previously approved use as an artist's studio to fall within class B1(a), Class O is subject to limitations as to the previous use of the building at O.1.(b) to ensure that the building was last used as an office and that this was a lawful use.
12. However, the situation on the ground raises doubt about the current use of the building as an artist's studio. The apparently domestic set up of what is a very small building would leave very little or no room for its use as approved in 2007.
13. Given that the evidence is silent on the matters above, it is therefore the case that the developer has provided insufficient information to enable me to determine that the use class of the building falls under the B1(a) use class.
14. I cannot therefore establish whether the proposed development complies with the limitations outlined within Schedule 2, Part 3, Class O of the GPDO.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR