The Planning Inspectorate

Appeal Decision

Site visit made on 27 June 2023

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 July 2023

Appeal Ref: APP/J0405/X/22/3312206
Barn House, Orchard Place, Westbury, Buckinghamshire NN13 5JT

- 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 Mr I Read against the decision of Buckinghamshire Council - North Area (Aylesbury).
- The application ref 22/03122/CPL, dated 5 September 2022, was refused by notice dated 31 October 2022.
- The application was made under section 192(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 alterations to the existing external elevations and associated internal works only.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

3. There is no dispute between the parties that the existing building to which the proposed development would be carried out sits forward of the principal elevation of the original dwellinghouse. Based on the evidence before me, I find no reason to conclude otherwise.

4. Class E.(a), Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO) permits the provision within the curtilage of the dwellinghouse of 'any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure'.

5. The proposed development would involve the 'maintenance, improvement of other alteration' to a building within the curtilage of a dwellinghouse. Therefore, Class E of the GPDO is applicable.

6. E.1.(c) goes on to state that development is not permitted by Class E if 'any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse.' The proposed development includes the closing up of existing openings and the insertion of new openings in the building and therefore form part of the building. As such, they would fall within the first part of E.1.(c) – 'any part of the building...' Consequently, as the development would form part of a

building that is situated on land forward of a wall forming the principal elevation of the original dwellinghouse it would not be permitted development.

7. As the development would not be permitted development by virtue of E.1.(c) I need not go on to consider whether it would be by virtue of E.1.(e).

8. I acknowledge the appellant's argument that the inclusion of the word 'would' in E.1.(c) and (e) is to be read in reference to a proposed building only and not existing buildings. However, I do not agree. It should be interpreted as once the proposed development has been carried out, would any of these limitations be breached. If the limitations are already breached prior to the development being carried out then they will inevitably be breached after they are carried out. That is not to say that the development would not be acceptable but that the threshold for what would require the granting of express planning permission has been met.

9. The appellant argues that some of the works may not constitute development. However, they have not specified which elements would not be development. Accordingly, I have determined the appeal on the basis that it all comprises development.

10. I therefore find that the proposal fails to meet the requirements of Class E of the GPDO and therefore would not be permitted development.

Conclusion

11. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of alterations to the existing external elevations and associated internal works was well-founded and that the appeal should fail.

Alexander Walker

INSPECTOR