
Appeal Decision

Site visit made on 13 December 2023

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 February 2024

Appeal Ref: APP/X1355/C/23/3326505

Land at Biggin Farm, New Brancepeth, Durham, DH7 7HQ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
 - The appeal is made by Messrs Truscott against an enforcement notice issued by the Durham County Council.
 - The enforcement notice was issued on 17 July 2023.
 - The breach of planning control as alleged in the notice is without planning permission, the operational development consisting of the unauthorised alteration of agricultural building, that being the installation of pre-cast concrete panels to infill between the steel frame supports.
 - The requirements of the notice are to permanently and completely remove all of pre-cast concrete panels to infill between the steel frame supports from the subject agricultural building.
 - The period for compliance with the requirements is 12 weeks.
 - The appeal is proceeding on the ground set out in section 174(2)(c) of the Act. Since a prescribed fee has not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act has lapsed.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

Appeal on ground (c)

2. The ground of appeal is that the alleged matters do not constitute a breach of planning control.
3. A breach of planning control is defined (s171A(1) of the Act) to include the carrying out of "development" without planning permission, and "development" is defined at s55 of the Act to include "building operations", including "structural alterations of or additions to buildings".
4. In this legal ground of appeal the burden of proof rests with the appellant and the test of the evidence is made on the balance of probability.
5. The appeal building is a steel portal framed agricultural barn approximately 31.5m x 13.6m x 6.7m (height) located in the countryside within a complex of farm buildings at Biggin Farm. The works carried out comprise the installation of grey concrete sectional panels to infill most of the previously open sides of the barn, and are attached to the frame structure by means of metal plates and bolts.
6. Given the scale of the works carried out, together with their appearance and method of attachment to the building I am satisfied that they constitute both

an addition to the building and an alteration to its structure and as such the works fall within the definition of “building operations”.

7. Taking the panels together as a whole, and having regard to long established case law¹, they are significant works which materially affect the external appearance of the building. As such, they are not excluded from constituting “development” by virtue of s55(2)(a) of the Act. The development carried out therefore requires planning permission.
8. Although the appellant does not seek to demonstrate differently I point out, for the avoidance of doubt, that planning permission known as “permitted development” within Article 3 and Schedule 2, Part 6, Classes A and B of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) exclude works to an agricultural building used or to be used for the accommodation of livestock where the building would be within 400 metres of the curtilage of a protected building². Class B additionally excludes the alteration of an agricultural building if the external appearance of the premises would be materially affected.
9. Consequently, since the development does not benefit from any planning permission it thereby constitutes a breach of planning control.
10. The appeal on ground (c) fails.

Thomas Shields

INSPECTOR

¹ *Burroughs Day v Bristol CC* [1996] 1 PLR 78; 1 EGLR 167

² Protected building is defined (GPDO) as “any permanent building which is normally occupied by people or would be so occupied, if it were in use for purposes for which it is designed, but does not include (a) a building within the agricultural unit; or (b) a dwelling or other building on another agricultural unit which is used for or in connection with agriculture.