



Appeal Decision

Site visit made on 16 January 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2024

Appeal Ref: APP/B1930/W/23/3327838

Lower Stud, Drop Lane, Bricket Wood, St Albans AL2 3TX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Planit Consulting against the decision of St Albans City and District Council.
 - The application Ref is 5/2023/1122.
 - The development proposed is Prior Approval - Change of use of agricultural building to dwellinghouse (Class C3) and associated building operations.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. In a section 78 appeal, the right of appeal only applies to the person(s) who applied for permission. The application was completed in the name of Mr J Long, Planit Consulting, but the appeal form is completed in the name of Mr Nicholas Chopping with Mrs Janet Long, Planit Consulting acting on their behalf. I have therefore considered Planit Consulting to be the appellant in this case.
3. I have taken the description of development from the Council's Decision Notice. The description listed on the application form is not a description of development. Whilst neither main party has provided written confirmation that a revised description was agreed, the description of development from the Council's Decision Notice is used by the appellant on the appeal form and in the Statement of Case.
4. Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended ("Class Q" of "the GPDO") permit the change of use of a building and any land within its curtilage from use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended); and building operations reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of that Schedule.
5. This is subject to several limitations where such development is not permitted, listed under paragraph Q.1, and subject to compliance with conditions, as set out under paragraph Q.2.

6. Schedule 2, Part 3, paragraph W.(3) of the GPDO states that the local planning authority may refuse a prior approval application where the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval for the scheme.

Main Issues

7. The main issues are:

(i) Whether the proposed development would constitute permitted development with regards to:

- whether development begun before receipt of written notice of the Council's decision as restricted by paragraph W.(11) of the GPDO and,
- whether the site was used solely for an agricultural use as part of an established agricultural unit as required by paragraph Q.1.(a) of the GPDO.

(ii) If the proposal is permitted development, whether or not prior approval is required.

Reasons

Permitted development

8. Paragraph W.(11) of the GPDO requires that development must not begin before the occurrence of receipt from the local planning authority of their determination or the expiry date of the application.
9. Prior to the submission of the application, works were carried out to the building. The main parties agree that the alterations to the roof and the main doors were undertaken as maintenance works. The point of dispute therefore relates to the changes to the external elevations of the building and whether these works were carried out for the conversion of the building into use as a dwellinghouse.
10. The pre-works photographs in the appellant's Statement of Case, show that the building had external walls which largely consisted of horizontal corrugated metal sheeting. This was replaced with a vertical timber cladding which the appellant describes as repair works to facilitate the storage of hay and machinery. They therefore contest that the works carried out would fall within the definition of development.
11. Section 55(2)(a) of the Act provides that operations which affect only the interior of the building or do not materially affect the external appearance of the building are not development. When comparing the pre-works photographs of the building to the current building, the changes to the external elevations from corrugated metal to timber have resulted in a material change to the external appearance of the building. This does not benefit from the exclusion provided by section 55(2)(a) of the Act and the operations therefore fall within the definition of development.

12. I recognise that the building was in a dilapidated condition. However, there is no substantive evidence before me to demonstrate why a change in the materials of the external walls, altering the exterior appearance of the building, was necessary to allow for the continuation of the use of the building for agriculture.
13. The submitted existing elevation drawings show the north and south elevation of the building to each have two windows, which the appellant has indicated were installed as a temporary addition. These windows were present at the time of the Council's site visit and were removed at the time of my site visit. From the photographs in the Council's Delegated Report, it would appear that the elevations would correspond with those of the proposed dwelling which is the subject of this appeal.
14. Notwithstanding that the windows have been removed, when taken with the alterations to the external walls, the physical state of the building has changed. The works carried out relate closer to the proposed use of the building as a dwellinghouse than any intended for agricultural improvement or maintenance.
15. Based on the evidence before me, I find that the works carried out constitute a commencement of the works implicit in the proposed change of use. As such, the development began before written notice of the Council's decision and conflicts with paragraph W.(11) and condition Q.2.(1). In support of the appeal, the appellant points to the fact that there have been no changes to the structural beams of the building. Whilst that may be the case, I am not persuaded that this outweighs my finding that development has already begun.
16. The proposal does therefore not constitute permitted development under Schedule 2, Part 3, Class Q of the GPDO. On this basis, it is not necessary for me to further assess whether the development also complies with the other requirements and conditions under Class Q, including paragraph Q.1.(a) relating to the use of the site.

Prior approval

17. As considerations in relation to prior approval are a follow-on condition stage under paragraph Q.2, this can therefore only apply if the development is permitted development. As the proposal is not permitted by Article 3(1) and Class Q, there is no need for me to consider whether prior approval is required.

Conclusion

18. For the reasons given above, the appeal should be dismissed.

L Reid

INSPECTOR