



Appeal Decision

Site visit made on 14 May 2024

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2024

Appeal Ref: APP/C1570/X/22/3309763

The Grange Sparrows Lane, Hatfield Heath, Essex CM22 7AU

- 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 Steve Cole against the decision of Uttlesford District Council.
 - The application ref UTT/22/1972/CLP, dated 13 July 2022, was refused by notice dated 13 September 2022.
 - The application was made under section 192(1)(a) and (b) of the Town and Country Planning Act 1990 as amended.
 - The use and development for which a certificate of lawful use or development is sought is the insertion of windows and doors to existing domestic stables to create ancillary living accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In an appeal under s195 of the Act against the refusal of a LDC the planning merits of the matter applied for do not fall to be considered. My decision is based strictly on the evidential facts and on relevant planning law. The burden of proof is on the appellant.
3. I have used the amended description of development agreed by the main parties in the banner at the top of this decision, as it accurately reflects the LDC refused by the Council.

Main Issue

4. I consider that the main issue is whether the Council's decision to refuse an LDC was well-founded. This will turn on whether the proposed development would constitute development, having regard to section 55 of The Town and Country Planning Act 1990 (as amended) ('the Act').

Reasons

5. An application under s192(1) of the Act seeks to establish whether any use or operations proposed to be carried out in, on, over or under land, would be lawful. Based on the evidence before me, the dispute relates to whether the proposed internal and external alterations, including the demolition of the workshop/machinery building, and the use of the appeal building as a dwellinghouse are "development" having regard to s55 of the Act.
6. "Development" in the context of s55 of the Act means the carrying out of building, engineering, mining or other operations in, over or under land, or the making of any material change in use of any buildings or other land. Due to the matters raised in this case, the term "building operations" for the purposes of

the Act, includes the demolition of buildings and structural alterations of or additions to buildings.

7. S55(2)(a) confirms that the carrying out for the maintenance, improvement or other alterations of any building of works which: affect only the interior of the building, or do not materially affect the external appearance of the building, shall not, for the purposes of the Act involve development. Furthermore, s55(2)(d) confirms that the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse is not development for the purposes of the Act.
8. In s55(2)(f) development is said not to include buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class. S55(3)(a) also confirms that the use as two or more separate dwellinghouses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used.
9. In relation to demolition, s55(2)(g) says that the demolition of any description of building specified in a direction given by the Secretary of State to local planning authorities generally or to a particular local planning authority. The Town and Country Planning (Demolition - Description of Buildings) Direction 2021 (the 2021 Direction) explains that the demolition of any building the cubic content of which, measured externally, does not exceed 50 cubic metres shall not be taken to involve development for the purposes of the Act. However, the term 'building' in this context does not include part of a building.
10. The appeal building lies at a distance, but within the curtilage of The Grange, a detached dwellinghouse found on the west side of Sparrows Lane. The appeal building lies within its own field, next to an area of hardstanding. One of the two accesses from the lane extends up to the appeal building, which is a timber barn/stable and single storey in height. It is of substantial construction and was formerly used to house the occupants' horses and goats but is now used for domestic storage.
11. It is proposed to demolish the workshop/machinery part of the building. Although access can only be gained externally into the workshop/machinery area, it is physically attached to the remainder of the appeal building, and despite its flat roof, it appears, in character and appearance terms, to be part of the appeal building. Despite the size of the workshop/machinery part of the appeal building, the 2021 Direction is clear that the term 'building' in this sense does not include part of a building. As such, the proposed demolition would be a building operation and therefore development.
12. Internally, a series of dividing walls/partitions would be removed or altered to create smaller or larger rooms and to facilitate corridors to allow movement within the appeal building. These changes are not structural alterations, and although they improve or alter the appeal building, the changes only affect the building's interior. As such, they would not be development.
13. Externally, the existing stable or barn door openings would be replaced and/or modified by the insertion of a series of doors and windows. Each new door and window in the yard and short yard elevation of the building would be sited in

the same place as the existing stable or barn door openings, and broadly reflect their size. Several windows are proposed for the access drive elevation and the hedge elevation, but given the presence of existing windows in each elevation, I consider that these changes would not materially affect the external appearance of the building. Hence, they would not be development.

14. Once converted, the appeal building would be used as additional living accommodation in connection with The Grange (Use Class C3). The building would be occupied by the appellant's daughter and her young family, thereby allowing grandparent support to be provided while both parts of the family retain some independence. The appellant does not propose to create a separate dwelling for use by anyone else outside the family unit. No separate curtilage would be formed, and occupants of the appeal building would use the existing garden that lies between the appeal building and The Grange.
15. Although the appeal building would contain facilities for day-to-day living, it would be physically and functionally linked to the main dwelling and, as a result, would be a use that is already taking place within the planning unit, as a matter of fact and degree. Thus, there would be no material change of use and this part of the proposal would not constitute development.
16. For the reasons set out above, I conclude that the use and internal and external development proposed would not amount to development as defined by s55 of the Act. However, the demolition of the workshop/ machinery part of the appeal building would be a building operation and therefore development for which planning permission is required. Therefore, I find on the balance of probabilities that the insertion of windows and doors to existing domestic stables to create ancillary living accommodation would be development having regard to s55 of the Act.

Conclusion

17. For the reasons given above, I conclude that the Council's refusal to grant an LDC in respect of the insertion of windows and doors to existing domestic stables to create ancillary living accommodation 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).

Andrew McGlone

INSPECTOR