
Appeal Decision

Site visit made on 9 August 2016

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 18 October 2016

Appeal Ref: APP/K0235/W/16/3146882

13a High Street, Clapham, Bedfordshire MK41 6EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Class O of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Stephen Singh against the decision of Bedford Borough Council.
 - The application Ref 16/00116/CPNO, dated 18 January 2016, was refused by notice dated 7 March 2016.
 - The development proposed is described as '*Change of use from office storage use to residential. No transport and highways impacts of the change of use. No external alterations to the building are taking place outside that permitted under permitted development rights and the development has not taken place already.*'
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Stephen Singh against Bedford Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether or not the proposal constitutes permitted development under Schedule 2, Part 3, Class O (offices to dwellings) of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('GPDO').

Reasons

4. The GPDO states that development is not permitted by Class O, if amongst other things '(b) the building was not used for a use falling within Class B1 (a) (Offices) of the Schedule to the Use Classes Order (i) on 29th May 2013, or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use'. Article 3(5) b of the GPDO states that permission granted by Schedule 2 of the GPDO does not apply if 'in the case of permission granted in connection with an existing use, that use is unlawful'.
5. Planning permission was granted by the Council on the 17 August 1999¹ for the erection of a first floor extension to existing workshop and offices for BE

¹ 99/00482/FUL

Craddock Builders and Property Maintenance. The extension was for additional office accommodation for that occupier, who ceased using the site in 2009. In 2012 planning permission was also granted for a single storey rear extension to the building for storage purposes. This was made by CoTech Trading (GB) Ltd, an aviation parts supplier who occupied the site between 2009 and 2016.

6. Although permission was granted for additional office space, this does not, in itself demonstrate or confirm the lawful planning use of the building. It merely shows that the development applied for was office accommodation. The appellant also submitted an application in 2016, with a description of development stating 'Change of use from office ancillary to builders yard (sui generis) to a residential dwelling' and has provided no evidence that he did not agree to such a description or that this is not accurate.
7. I also find the appellant's submissions somewhat contradictory on this matter, stating in parts that 'the site ceased being a builders yard since 2009 when Craddock builders sold it to CoTech'² and in others that 'this office use since 1999 is the lawful use of the building because of the four year rule'³. A Valuation Office assessment dated October 2009 shows that the building was split between a workshop and office space with a small reception and entrance area.
8. The Council contend that an application form for a permission in 2012 shows that the CoTech use was a B8 Storage and Distribution use, a point that is not disputed by the appellant. A letter from Co Tech Trading (GB) Ltd, dated 10 March 2016 also refers to 'offices and storage' and the Council have also provided an aerial photograph of the site taken on 3 June 2010. This shows external storage to the rear of the site when occupied by Co Tech Trading (GB) Ltd that could not reasonably be considered as being ancillary to an office use.
9. I have also been provided with no evidence that planning permission was granted for the CoTech use. Whether the Council chose to take enforcement action or not is not a matter for me to address and has no bearing on my assessment of the main issue.
10. On the evidence before me, I am not satisfied that the actual CoTech use was a B1 (a) Office use and even if it were, it is not sufficient for the appeal property to have last been in such a use on/before the relevant date, in order for Class O to apply, that use must also be lawful. I am not persuaded by the appellant's evidence that the lawful use of the appeal site is for B1 (a) Offices and in this particular case, it has not been shown that Article 3(5) has been satisfied. I therefore conclude that the proposal does not constitute permitted development under Class O of the GPDO.

Other Matters

11. As I have determined that permitted development rights should not apply I have not considered it necessary for me to reach a conclusion on the prior approval matters in paragraph O.2 of the GPDO and relevant sections of paragraph W – namely transport and highways impact, contamination, flooding risk, noise and whether the development has commenced.

² Second page of 'Appeal 13A High Street, Clapham, Bedford MK41 6EQ' document.

³ First page of 'Planning appeal at 13a High Street, Clapham, Bedford' document dated 21 April 2016.

12. Although the appellant may be frustrated with the application process, the Council's administration and determination of the application are not matters for me to address as part of this appeal. I acknowledge the personal circumstances of the appellant but in this particular case, such considerations have no bearing on my assessment as to whether the proposal constitutes permitted development under the terms of the GPDO.

Conclusion

13. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

