
Appeal Decision

Site visit made on 11 October 2016

by David Walker MA MRTPI

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

Decision date: 18 November 2016

Appeal Ref: APP/D0840/W/16/3151929

The Office at Meadowside, Whitstone EX22 6TB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Mr David Chapman against the decision of Cornwall Council.
 - The application Ref PA15/10898, dated 18 November 2015, was refused by notice dated 11 January 2016.
 - The development proposed is change of use of single storey office into a one bedroomed dwelling.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by Mr David Chapman against Cornwall Council, and by Cornwall Council against Mr David Chapman. These applications are the subject of a separate Decision.

Procedural Matter

3. The provisions of paragraph O.1 (b) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the Order) require the building to be changed into a dwellinghouse to have been used for a use falling within Class B1 (a) (offices) of the Schedule to the Use Classes Order. The application was refused on the basis that the building was not a stand-alone office and so did not benefit from the permitted development right. I have determined the appeal on this basis.

Reasons

4. After obtaining planning permission¹ in 1991 the building was first used by an architectural practice. However, the parties agree that it was afterwards used in conjunction with the building business of the former owner, a Mr Rees, up until the time it was sold to the appellant in 2013. This is confirmed by the letters from past visitors to the premises provided by the appellant, and separately in support of the scheme.

¹ From plans provided and marked 'Approved' under 'Planning Decision Notice 91/2360 dated 19 November 1991'

5. I have no reason therefore to question the appellant's description of the building and it was apparent at my site inspection that it had been fitted out and used as an office in the past. However, only the plans from the 1991 permission have been provided to me and these show that the appeal building fell within a property boundary including other buildings described variously as 'stores, existing joinery shop, and existing offices'.
6. Therefore, while I acknowledge that a building business could conceivably have dedicated offices in a Class B1 (a) use, the appeal building would appear to have formed part of a range of associated activities described by the Council as being in a *sui generis* use. The appellant points to there being no need for his submissions to be corroborated by independent evidence². However, I have nothing else before me to confirm that the appeal building was used independently from the other buildings of the property.
7. On this basis I am not satisfied that the appeal building was ever formed in its own planning unit³ to have established a Class B1 (a) use separate from the existing use of the property. As a result, the permitted development right set out at Schedule 2, Part 3, Class O of the Order does not apply.
8. For the reasons given above I conclude that the appeal should be dismissed.

David Walker

INSPECTOR

² With reference to *F W Gabbittas v SSE and Newham LBC* [1985] JPL 630

³ The lawfulness of the existing use of the building is not before me for consideration and it remains open to the appellant to apply for a certificate of lawfulness, if required.
