
Appeal Decision

Site visit made on 5 June 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 28 June 2017

Appeal Ref: APP/J9497/W/17/3168967

Mill House, Manor Mills, Exeter Road, South Brent, Devon TQ10 9JD

- 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) (England) Order 2015, as amended.
 - The appeal is made by Mr Ray Tombs of Pack First Removals against the decision of Dartmoor National Park Authority.
 - The application Ref 0546/16, dated 5 October 2016, was refused by letter dated 5 December 2016.
 - The development proposed is change of use of office building (Class B1(a)) to residential use (Class C3).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO) (hereafter referred to as Class O) permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a)(offices) of the Schedule to the Use Classes Order, to a use falling within Class C3(dwellinghouses) of the same order.
 3. Permission under Class O is conditional upon the developer first applying to the local planning authority for a determination as to whether its prior approval will be required as to the transport and highways impacts of the development; contamination risks on the site; flooding risks on the site; and the impacts of noise from commercial premises on the intended occupiers of the development. The application to the Authority was made on this basis.
 4. The development is also subject to a number of criteria which are set out in Paragraph O.1 under Class O. Proposals must meet these requirements in order to benefit from permitted development rights. Paragraph W(3) of Schedule 2, Part 3 to the GPDO states that an application may be refused where, in the opinion of the local planning authority, 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.
 5. The Authority has not issued a formal decision notice. However, I have treated its letter of 5 December 2016 as a refusal under Paragraph W(3) provisions.
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6. In addition to identifying the building, the submitted plans include land within the red line. I have treated this area as being within the curtilage for the purposes of the application. It would therefore become residential curtilage in the event of prior approval being granted.

Main Issue

7. The main issue in this case is whether the proposal constitutes permitted development under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Reasons

8. The change of use sought does not benefit from the provisions of Class O where, amongst other things, the building was not used for a use falling within Class B1(a) (offices) on 29th May 2013, or 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 (Paragraph O.1(b)). The Authority considers that the proposal would conflict with this limitation on the grounds that the dwellings would not be formed entirely of parts of the building that were in B1 office use on the prescribed date or when last in use.
9. At the time of my visit Mill House was vacant. It was apparent that some works had already taken place to remove internal room partitions in the southern half of the building. The ground floor had been extensively stripped out. This left few clues as to how this part of the building had been last used. The first floor was more intact and had the appearance of disused office accommodation.
10. The existing plans submitted with the application describe the premises as "workshop/storage and office building". To the one side of the main entrance the plans identify a workshop with a store and strong room leading from it. To the other side is a store with two small offices. At first floor the building is shown as being subdivided into various rooms with toilet facilities. Additional floorspace exists within the roof space of the building.
11. It is argued that the workshop and storage rooms were ancillary to the primary use of the building as offices. However, these areas occupy a significant proportion of the overall floorspace. Without understanding more about the nature of the former business operation it is difficult to determine whether certain activities were incidental to others, or whether the building was in mixed use as the Authority has suggested.
12. There is no substantive evidence to indicate that the appellant had first-hand knowledge of the use of the building at the relevant point in time. I am therefore reliant upon a statutory declaration from the Company Secretary of the firm which owned and occupied the site on the prescribed date. This states that, until August 2012 when administrative operations were transferred to adjoining premises, the building was fully occupied as offices on the ground and first floor levels, with the upper floor utilised as file/archive storage in association with the office use. Whilst I note this information, the statutory declaration is not signed or dated. Consequently, I can attach it very limited weight.
13. In light of the above, I am not in a position to determine with any confidence that the primary use of the building fell within Class B1(a)(offices) of the Use Classes Order on 29th May 2013 or when last in use. Having regard to Paragraph W(3), which places the onus upon the developer to demonstrate

compliance with the relevant limitations and restrictions, I find that there is insufficient information to enable me to establish whether the proposed development complies with the restriction set out in Paragraph O.1(b).

14. Accordingly, on the evidence presented, I must conclude that the proposal does not constitute permitted development under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. Thus it is not necessary for me to consider the matters set out in Paragraph O.2.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR