
Appeal Decision

Site visit made on 4 July 2017

by Zoe Raygen Dip URP MRTPI

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

Decision date: 8 August 2017

Appeal Ref: APP/D3505/W/17/3169441

The Granary, Mill Hill, Bury Road, Lavenham, Sudbury CO10 9QG

- 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 P of the Town and Country Planning (General Permitted Development)(England) Order 2015.
 - The appeal is made by Mr Trevor Smith against the decision of Babergh District Council.
 - The application Ref B/16/01302/STDW, dated 23 September 2016, was refused by notice dated 7 December 2016.
 - The development proposed is change of use of B8 storage building to single dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's sole reason for refusal is that insufficient evidence has been submitted to demonstrate that the appeal property was in storage (class B8 use) on 19 March 2014 or when it was last in use.
3. In addition, in order for the conditions in Class P.2 to be met, consideration of the impacts of the development on the matters set out in Class P.2(b) (i) to (vi) is necessary.

Background and Main Issues

4. The Granary forms a small building to the rear of a group of cottages, all of which may historically have been associated with the Mill House located on the opposite side of Bury Road. The cottages to the front of The Granary have been converted to residential use.
 5. Applications B/14/01081, B/15/00639 and B/15/01492 were submitted by the appellant, in respect of The Granary, for the change of use of an agricultural building to a dwelling house under prior approval procedures, and all were refused by the Council.
 6. The main issues are:
 - Whether the proposal is permitted development having regard to Class P of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015); and
 - If the proposal is permitted development under the provisions of GPDO 2015, whether the proposal is acceptable with regard to its impacts on
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air quality, transport and highways, contamination, flooding, noise, and provision for storage and distribution services in the area.

Reasons

Permitted development

7. Class P states that development is not permitted by Class P if the building was not used solely for a storage or distribution centre use on 19 March 2014 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, as set out in Class P.1(a). Development is not permitted under Class P.1(b) if the building was not used solely for a storage or distribution centre use for a period of at least four years before the date development under Class P begins.
8. P.2(a) requires a developer to submit a statement with the application setting out the evidence relied upon to demonstrate that the development is permitted by Class P as set out in P.1(a) and P.1(b).
9. The Council has confirmed that no formal planning permission or Lawful Development Certificate (LDC) exists for the unit for Class B8 use. The appellant has submitted extracts from the application forms from two of the previous applications for prior approval for The Granary which describes the building as being used for storage.
10. In addition, he has submitted an extract from a planning officer report in respect of one of the applications for prior approval which describes the appeal premises and the wider mill complex as "the former Mill industry is considered to have a B2 land use under the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Granary store a B8 land use". The Officers classification of the Granary as B8 seems to originate from their on-site observations which indicated that the building was being used as a storage building in association with the applicant's dwelling in Shilling Street. They go on to state that site history indicates this was also the case in 2012, which would indicate a similar use was in effect on 20th March 2013.
11. Nevertheless, the appellant in his affidavit denies that the Granary has ever been used as a store in association with his residential dwelling. Instead he states that he purchased the building in 2011 and since that time it has been redundant, disused and empty. Therefore, from this sworn statement, I conclude that the appeal premises were not in active use as storage or distribution on the 19 March 2014.
12. The appellant also states that the building perhaps fell into disuse about 40-50 years ago. Documents associated with a 1988 planning application (B/88/00956) confirm that the mill fell into disuse around 1916 and was vacant for around 90 years. The evidence I have to indicate that the appeal premises were last used for storage or distribution is limited to the contents of a letter from a historic buildings consultant dated 24th May 2012.
13. The letter suggests that the appeal building, together with Mill, Marigold and Meadow Cottages were associated with the adjacent corn mill on Bury Road and probably used for ancillary storage purposes, until, in the case of the Cottages, they were converted to residential accommodation for mill workers. However, this does not amount to evidence that the use of The Granary was definitively for storage purposes or that the use was lawful. While I appreciate

that such a use would be old, in order to take advantage of the permitted development rights it must be lawful.

14. Furthermore, even if I were to accept that the building has been used for storage purposes in its own right, I have no evidence before me to suggest that the building has been used for a period of at least four years for storage purposes whether that be in the immediate period before 19 March 2014 or for a period of four years in its history.
15. For the reasons above, I am not satisfied therefore, that sufficient evidence has been submitted to demonstrate that, on the balance of probabilities, the appeal premises was lawfully used as for storage or distribution falling within Class B8 of the Schedule to the Use Classes Order on 19th March 2014, or when it was last in use or for a period of four years before the date development under Class P begins. Therefore, the proposal before me is not permitted development under Schedule 2, Part 3, Class P (storage or distribution to dwellings) of the GPDO. Consequently, I conclude the proposal is development for which planning permission is required. An application for planning permission would be a matter for the Local Planning Authority to consider in the first instance.
16. Given my findings above it is not necessary for me to consider the related merits of the prior approval application against those matters set out in Paragraph P.2 of Class P of the GPDO.

Conclusion

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

Zoe Raygen

INSPECTOR