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## Appeal Decision

Site visit made on 17 June 2019

**by Alexander Walker MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9<sup>th</sup> July 2019**

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**Appeal Ref: APP/M3455/W/19/3225933**

**Crown Works, Cape Street, Hanley, Stoke on Trent, Staffordshire ST1 5AZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr John Colclough on behalf of Pegasus Residential against the decision of Stoke-on-Trent Council.
  - The application Ref 63225, dated 27 October 2018, was refused by notice dated 4 January 2019.
  - The development proposed is the change of use from light industrial (B1(c)) to create 4 no. self contained dwellings (C3).
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. I have used the description of the development as set out in the Council's decision notice as that is more concise than the description set out on the application form.
3. The appeal was initially submitted on the basis that the Council failed to determine the application within the prescribed period of time. The application was registered as valid on 9 November 2018 and the Council subsequently determined it on 4 January 2019. The 56 day determination period begins on the day following the date on which the application is received by the Council<sup>1</sup>, which in this instance would be the 10 November 2018. Therefore, the Council are correct in that the 56 day determination period expired on 4 January 2019. As the date of the decision was 4 January 2019, I have determined the appeal on the basis that it is against the Council's refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
4. I note the appellant's submission of a copy of a 'Days Calculator'. This clearly states that the calculation made was 'from and including: Friday 9 November 2018'. However, the 56 day period begins on the day *following* the date on which the application is registered. I have had regard to the appeal decision<sup>2</sup>

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<sup>1</sup> Schedule 2, Part 3, Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO),

<sup>2</sup> Appeal Ref APP/V2825/W/18/3195459

referred to me by the appellant. However, the circumstances are materially different to the appeal before me.

### **Main Issue**

5. The main issue is whether the proposal would comply with the express terms of permitted development set out in Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), and in particular paragraph PA.1(b).

### **Reasons**

6. The appeal building is located within a mixed-use area comprising various residential, commercial and industrial uses. At the time of my site visit, the building appeared to be vacant.
7. The appellant contends that the lawful use of the building is B1(c) as it was previously used as a brush manufacturers. This is supported by a photograph dated September 1963, which clearly identifies the premises as a brush manufacturers, and a letter from Matthew Mason from a nearby business, confirming that he believes the site has been used for storage/workshop in the past, including a brush company. The appellant states that the property has been used for brush manufacturing for 9 decades and only ceased in 2015. However, there is no evidence to support the use taking place beyond 1963 as indicated in the photograph submitted. If the use had continued up to 2015, then it is reasonable to conclude that there would likely be a greater source of more recent supporting evidence.
8. The Council state that the Land Use Gazetteer identifies 'broom or brush manufacturing place' as falling within a B1 use. However, it also states that where such a use is potentially detrimental to residential amenity it is a B2 use. Furthermore, the Council state that the production of brush handles is a B2 use.
9. Whilst there is no dispute that the site has evidently been used as a brush manufacturers, there is no evidence of what manufacturing processes took place. Given the proximity of the site to residential properties, particularly those on the opposite side of Cape Street, there is a reasonable likelihood that the manufacturing of brushes would create a level of noise, and potentially other pollutants and disturbance, to the occupants of these properties, to such an extent that it would be detrimental to their amenity. As such, based on the evidence before me, it could reasonably fall within a B2 use.
10. Moreover, there is no evidence as to over what period of time the property was used as a brush manufacturers. The anecdotal evidence submitted by Matthew Mason indicates that the site has since been in use as a storage/workshop, and prior to the brush manufacturers it was used as a cleaning company. Therefore, given the potentially various uses that have taken place in the building over the years, based on the evidence submitted, I am not satisfied that on the balance of probabilities, the lawful use of the building is B1(c).
11. The Council also states that an additional prior approval application<sup>3</sup> has been submitted to the Council for the appeal site that states that the building has a B1(a) use. Whilst the evidence before me of this application is very limited,

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<sup>3</sup> LPA Ref 63843/PRA

this clearly undermines the appellant's contention that the building has a B1(c) use.

12. On the basis of the evidence before me, insufficient evidence has been provided to demonstrate that on the balance of probability the appeal property was not solely in light industrial use on 19 March 2014 or when it was last in use before this date. I conclude therefore that the proposal would not comply with the express terms of permitted development set out in Schedule 2, Part 3, Class PA of the GPDO, and in particular paragraph PA.1(b). It is therefore not permitted development.
13. Given my conclusion above, there is no need for me to consider the prior approval matters as it would not alter the outcome of the appeal.

### **Conclusion**

14. For the reasons given above, the appeal is dismissed.

*Alexander Walker*

INSPECTOR