



Appeal Decision

Site visit made on 20 August 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2019

Appeal Ref: APP/Z3825/W/19/3229953

Workshop North of Teacaddy Cottages, off A24, West Grinstead, RH13 8LG.

- 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 PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr & Mrs Henry Pannell against the decision of Horsham District Council.
 - The application Ref DC/19/0617, dated 18 March 2019, was refused by notice dated 15 May 2019.
 - The development proposed is described as 'Prior Approval for conversion of B1(c) workshop into 2 Class C3 dwellinghouses'.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the conversion of B1(c) workshop into 2 Class C3 dwellinghouses at Workshop North of Teacaddy Cottages, off A24, West Grinstead, RH13 8LG. Approval is granted in accordance with the terms of the application Ref DC/19/0617, dated 18 March 2019 and the plans submitted with it.
2. In addition to the above, it should be noted that Paragraph PA.2(2) of the GPDO requires that development permitted by Part PA is to be completed within a period of three years starting with the prior approval date. Paragraph W(12) requires that the development must be carried out in accordance with the details provided in the application.
3. The Council requested a condition with respect to contamination. I have had regard to the professionally produced Preliminary Risk Assessment¹ which has been submitted as evidence by the appellant, which concluded the appeal site has a low to moderate risk of contamination. On that basis I am satisfied that the Council has sufficient information and that the proposal complies with Paragraph W.10 (c) of the GPDO.

¹ Preliminary Risk Assessment Report Ref: GSP-2017-09241-FINAL

Application for costs

4. An application for costs was made by Mr & Mrs Henry Pannell against Horsham District Council. This application is the subject of a separate Decision.

Main Issue

5. The main issue is whether the proposal would comply with the express terms of the permitted development set out in Schedule 2, Part 3, Class PA of the GPDO.

Reasons

6. Schedule 2, Part 3, Class PA of the GPDO permits development consisting of the change of use of a building and any land within its curtilage from a use falling within its curtilage from a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.
7. Paragraph PA.2.1(b) of the GPDO states that before beginning the development, the developer must apply to the Council for a determination as to whether the prior approval of the authority will be required as to conditions (i)-(iv), which in this case (i), (iii) and (iv) are not in dispute and I have no reason based on the evidence to disagree. Condition (ii) relates to contamination and I note that the appellant submitted a professionally produced Preliminary Risk Assessment (PRA) which concluded that the appeal site has a low-moderate risk of contamination.
8. The Council has concerns with respect to the condition in Paragraph PA.2.1(a) of the GPDO which requires that it should be demonstrated that the building was used solely for a light industrial use on 19th March 2014 (the relevant date) 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 per Paragraph PA.1.(b) of the GPDO.
9. The Council's sole reason for refusal concerns the use of the building at the time of the officer's site visit, which as a result was considered to be no longer solely in a Class B1(c) use, but predominantly in use for storing a mix of residential paraphernalia and commercial goods, which the appellant contests were being stored there temporarily. Dated photographic evidence² has been submitted by the Council showing the interior of the workshop on the site visit date, compared to photographs³ taken when the Council granted a Certificate of Lawful Existing Use or Development⁴ (CLEUD) for Class B1 use in January 2017.
10. The appellant contests that the building has been in use solely as a Class B1(c) use and when the building was purchased in 2017, the business identified in the CLEUD was taken on, including the stock and it has subsequently been expanded. Evidence of the type of articles which are purchased, refurbished or maintained and sold on-line have been submitted as evidence and would, they contest be consistent with a Class B1(c) use. Further evidence submitted by the appellant in a series of photographs⁵ shows equipment and machinery in

² Appendix E Site Photos (Site Visit 08 April 2019)

³ Appendix D DC/16/2525 Site Visit Photos (Dated 30/11/2016)

⁴ Certificate of Lawful Use or Development (Existing) Application No.DC/16/2525

⁵ Appellants Final Comments Appendices Screen Shots taken 09/08/2019

the workshop and on-line activity for March 2019, including examples of goods being refurbished and sold and employee salary details.

11. On the basis of the evidence submitted, the Class B1 workshop operations being undertaken from the premises on the relevant date as per Paragraph PA.1.(b) of Schedule 2, was confirmed by the Council when it granted the CLEUD⁶. Further, the Council in its Written Statement clearly states that when the CLEUD was granted, the building had been operating as a workshop (within Class B1) for at least 10 continuous years, which would have included the aforementioned relevant date.
12. The Council's site visit's in 2016 and 2019 post-date the relevant date and the Council provides no further evidence which would indicate that the premises was not in its lawful use at that time. Further, I note that the Council referred to the CLEUD when it determined a separate application for the appeal site, shortly before the current appeal was lodged and made no reference to any concerns with respect to B8 storage use which would fall outside of its Class B1 use.
13. Given the uses described by the Council in footnote 6, I am satisfied that the Council's description of the business operations being undertaken at the relevant date would be consistent with a Class B1(c) use.
14. I conclude that the appellant has submitted sufficient evidence to demonstrate that the building was solely in Class B1(c) at the relevant date and it would therefore comply with Paragraph PA.2.1(a) of Schedule 2, Part 3, Class PA of the GPDO.

Conclusion

15. For the reasons set out above, the appeal is allowed.

Paul Wookey

INSPECTOR

⁶ Appellants Statement of Case Legal 2 attachment