



Appeal Decision

Site visit made on 24 September 2019

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 October 2019

Appeal Ref: APP/U1105/W/19/3233545

Unit 1, Westerhope Units, Longlane, Dunkerswell EX14 4QN

- 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 O, Paragraph O.2.(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr T Veysey against the decision of East Devon District Council.
 - The application Ref 19/0009/PDO, dated 21 December 2018, was refused by notice dated 26 February 2019.
 - The development proposed is the change of use of a building from Office Use (Class B1(a)) to a Dwellinghouse (Class C3).
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Decision

1. The appeal is dismissed.

Procedural matters

2. The site address is stated on the Council's decision notice and appeal form as Lodge Farm. I have described it as Westerhope Units, which comes from the application form. The description of development comes from the heading on the application form.
3. The Town and Country Planning (General Permitted Development) Order 2015 (as amended) ("the GPDO") sets out at Schedule 2, Part 3, Class O that 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 that schedule is permitted development.
4. There are various limitations to permitted development, set out at GPDO paragraph O.1, including that development is not permitted if the building was not used for a use falling within Class B1(a)(offices) of the Schedule to the Use Classes Order on 29 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 the use. The appellant asserts that the building was in office use on 29 May 2013, whilst the Council seeks to cast doubt on this.
5. However, GPDO paragraph O.2(1) sets out the condition that development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to various matters.

6. The appellant's evidence surrounding the use of the building on 29 May 2013 suggests that at some point in 2014, the upper floor of the building was converted to a dwelling. At my site visit, I observed that the upper floor had accommodation including a kitchen, living area and bedrooms. There appeared to be people living there.
7. The appellant's evidence about works undertaken in 2014 and my own observations lead me to conclude that works to bring about the change of use of at least the upper floor of the building have been carried out. The appellant has referred to two enforcement notices in respect of alleged unauthorised residential uses which he claims have been complied with. However, he has been unable to provide any details as to the requirements of the most recent notice from August 2017 and so I cannot place any weight upon it.
8. Regardless of the enforcement history and whether or not there was a residential use of the building on 29 May 2013, the condition at paragraph O.2 is clear that a determination as to whether prior approval is required must be sought before beginning the development. Even if the lawful planning use of the building remains an office, the submitted evidence together with my own observations indicate that works to facilitate the development have been begun and so the permitted development right conveyed by the GPDO is not available.

Conclusion

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

M Bale

INSPECTOR