



Appeal Decision

Site visit made on 8 October 2019

by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practicing)

an Inspector appointed by the Secretary of State

Decision date: 15 October 2019

Appeal Ref: APP/X1165/W/19/3226247

Little Clennon Pastures, Blagdon Lane, Paignton TQ3 3YA

- 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) Order 2015 (GPDO).
 - The appeal is made by Mr Adam Steward and Mr Ripley against the decision of Torbay Council.
 - The application Ref P/2018/1154, dated 17 November 2018, was refused by notice dated 9 January 2019.
 - The development proposed is the conversion of two storage buildings to three residential houses, including access, parking and amenity areas.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal form states that the names of the appellants are "Mr and Mr Adam/Ripley Steward Ripley". However, following confirmation received by Mr Adam Steward at my site visit, the correct names of the appellants in this appeal are, Mr Adam Steward and Mr Ripley. In the interests of accuracy and consistency I have used these names in the heading and description given above.

Main Issues

3. 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 (the GPDO); and
 - If the proposal is permitted development under the provisions of the GPDO, whether the proposal is acceptable with regard to its impacts on transport and highways.

Reasons

4. The appeal site comprises six units of varying sizes, arranged in two separate buildings, with associated area of hardstanding and access onto Blagdon Road.
5. The GPDO provides 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 4 years before the date development under Class P begins.
6. P.2(a) of the GPDO 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) as described above.
 7. The Council has confirmed that no Certificate of Lawful Existing Use or Development exists for any of the units for Class B use. The Council maintains that insufficient evidence has been submitted to demonstrate that the buildings at the appeal site have been in Class B8 use for the required period and that specifically one of the units at the site is currently used in conjunction with the stables located adjacent to the site and therefore would be considered to be in sui generis use.
 8. In respect of the unit which is located closest to the adjacent stables, I conclude that the proximity of the unit to the stables does not determine its use, as the stables and the units which comprise the appeal site, represent two separate planning units which have a clearly defined boundary between them. The storage of items such as saddles and other equestrian equipment is not specifically excluded from storage under Use Class B8.
 9. Notwithstanding the above, it has been put to me by the appellants that all of the units have been used solely for storage in accordance with Use Class B8 for the requisite period of time, and have provided statements and business accounts in support of this assertion.
 10. In this regard, the appellants have provided a number of unsworn statements by tenants which indicate those units at the appeal site which they individually rented for certain periods of time. These statements provide that, despite some gaps in the periods of rental, the unit which is located closest to the point of access from the site onto Blagdon Road has been in B8 storage use for the required period.
 11. However, the statements from tenants provided in relation to the remaining units at the site do not, in combination, confirm that all the units were in use for the entire required period. In this respect, and with regards to the statements by these tenants, there is a significant and meaningful gap of approximately five years in relation to the use of one of the units, with no supporting statements by tenants being provided in relation to the remaining four units which are located furthest from the point of access from the site onto Blagdon Road.
 12. Notwithstanding the above, the appellants have provided their own sworn statements regarding the use of the units since their purchase of the site and buildings in 2005. These statements provide details of tenants who rented the respective buildings during the period since the purchase of the site by the appellants. However, the appellants' sworn statements appear to provide that certain named tenants rented the entirety of one of the buildings at the site, whereas the statements provided by those same named tenants confirm that they only rented units forming parts of certain buildings. This appears to

contradict the information supplied within the statements made by the appellants.

13. Furthermore, the appellants' sworn statements indicate that, in addition to a number of listed tenants, the appellants "utilised parts of the building" for their own storage purposes. However, it is not clear from this statement as to which "building" at the appeal site was being referred to and no information has been provided to confirm which periods any such use by the appellants occurred. The statements are unclear and imprecise and, therefore, are insufficient to confirm that all of the units at the site were in use as B8 storage for the requisite periods of time as required under Class P of the GPDO.
14. In addition to the above, whilst I acknowledge the information supplied by the appellants in relation to business accounts which shows income being received in the form of rental payments, the accounts provide no confirmation as to the continued B8 use of each of the units located at the site.
15. Therefore, from the evidence before me, on the balance of probabilities I cannot conclude with any certainty that all of the units at the site were used solely for a storage or distribution centre use on 19 March 2014 or before that date or that the building was not used solely for a storage or distribution centre use for a period of at least 4 years before the date development under Class P begins. Consequently, the proposal would not comply with the conditions, limitations or restrictions applicable to development permitted, having regard to Class P of Schedule 2, Part 3 of the GPDO, and therefore is not development permitted by it.
16. By reason of the findings given above, it is not necessary or appropriate for me to further consider the criteria set out in paragraph P.2(b) of the GPDO in respect of whether the proposal is acceptable with regard to its impacts on transport and highways.

Other Matters

17. Interested parties have raised additional objections including, amongst other matters, the effect of the proposal on ecology. These are important matters and I have considered all the evidence before me. However, given my findings in relation to the main issue, these are not matters which have been critical to my decision.

Conclusions.

18. For the reasons set out above, the appeal should be dismissed.

A Spencer-Peet

INSPECTOR