
Appeal Decision

Site visit made on 24 September 2019

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal Ref: APP/H2265/C/19/3220734

**Building A, Beechin Wood Farm, Beechinwood Lane, Platt, Sevenoaks
TN15 8QN**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Redford James against an enforcement notice issued by Tonbridge & Malling Borough Council.
 - The enforcement notice was issued on 19 December 2018.
 - The breach of planning control as alleged in the notice is without planning permission the change in use of the site from a joinery workshop falling within Class B1 to a sui generis use being display and sale of vehicles.
 - The requirements of the notice are to cease the unauthorised use of the site for the display and sale of vehicles and to remove from the site all vehicles displayed for sale.
 - The period for compliance with the requirements is one calendar month from the date the Notice takes effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(c) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld.

The Appeal on Ground (c)

2. An appeal on this ground is that “those matters” (the matters stated in the alleged breach of planning control) do not constitute a breach of planning control. The burden of proof for this ground is on the appellant, with the relevant test of the evidence being on the balance of probability.
3. I understand that Building A at Beechin Wood Farm was previously used as a joinery workshop under Use Class B1 of the Town and Country Planning (Use Classes) Order 1987. The building now contains cars, office and other equipment belonging to a company that deals in second hand cars, Kent Motor Cars. There is no dispute that the change in use amounts to development as defined in section 55 of the Act and that as such it requires planning permission. The appellant contends that this is a use which benefits from planning permission by virtue of falling within Use Class B8 of Schedule 2, Part 3, Class I of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
4. Schedule 2, Part 3, Class I of the GPDO enables the change of use of buildings from Use Class B1 to Use Class B8 provided that it relates to no more than 500 square metres of floor space within the building. It is common ground between

- the parties that such a change of use could have taken place within this building.
5. As a result, it is necessary to determine whether the current use falls within Use Class B8.
 6. From the submitted evidence and from what I observed during my visit to the appeal site it is clear that cars are parked within the building and within the areas surrounding the building. These cars comprise the stock of Kent Motor Cars that is a car trader, buying and selling cars. These are advertised elsewhere, in particular online. None of the cars contain advertisements within their windows to indicate they are for sale. There are no advertisements on the site or on Beechinwood Lane to suggest that car sales operate from this location.
 7. Extracts from the website of Kent Motor Cars provided with the Council's statement provides the address of the site as that of the company, contains a map showing the site and lists the business hours. It lists a number of services offered by the company, including vehicle sales, finance and sale or return and states that sales viewings are available by appointment. The Council's site visit notes also record that customers occasionally visit the site for viewings, albeit I have no information as to how frequently this occurs. I note that, once purchased, cars are delivered directly to the customer at an agreed location.
 8. It is clear from the evidence that the cars kept at Beechin Wood Farm are available for sale and that viewings are possible from that site, albeit only by appointment. No evidence has been presented that suggests any other location is available for potential customers to view or test drive cars by Kent Motor Cars.
 9. I conclude that, on the balance of probability, the primary use of Building A at Beechin Wood Farm is for the sale and display of motor vehicles. That constitutes a *sui generis* use and does not fall within Use Class B8 or any other Use Class. As a result, the use of the building does not benefit from the planning permission (permitted development) right conferred by Schedule 2, Part 3, Class I of the GPDO for the change of use from Use Class B1 to B8. Since no planning permission has been granted for the development it thereby constitutes a breach of planning control.
 10. For these reasons, I conclude that the appeal under ground (c) fails.

AJ Steen

INSPECTOR