
Appeal Decision

Site visit made on 03 September 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2019

Appeal Ref: APP/H1033/W/19/3232924

Land to the rear of 13 Charlestown Road, Glossop, Derbyshire SK13 8JT

- 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) (England) Order 2015.
 - The appeal is made by Mr Flint against the decision of High Peak Borough Council.
 - The application Ref DET/2019/0001, dated 19 February 2019, was refused by notice dated 16 April 2019.
 - The development proposed is change of use B8 to C3.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The site address is given in the application form as 'Land to the rear of 13 Charlestown Road, Glossop'. In the interests of more accurately identifying the location of the appeal site, I have adopted the address from the appeal form in the banner heading above.

Main Issue

3. The main issue is 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 (as amended) (the GPDO).

Reasons

4. The appeal site is to the rear of Nos 9 to 13 Charlestown Road. It is an overgrown area and there is an old domestic vehicle and a quantity of building waste and materials on the site. To the rear of No 13, the building the subject of the appeal is a small extended outbuilding, constructed of various materials and in a state of disrepair. Although I did not enter the building, part of the interior was visible from the elevated land to the rear of the site and I observed timber, a bulk water container, a traffic cone and what appeared to be a commercial tin of vegetable oil.
5. Schedule 2, Part 3, Class P of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or distribution centre) to a use falling within Class C3 (dwellinghouses), subject to the exceptions set out in paragraph P.1 and the conditions in paragraph P.2.

6. Paragraph P.1 of the GPDO states that development is not permitted by Class P if (a) the building was not used solely for a storage or distribution centre use on 19th 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 or (b) 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.
7. Paragraph P.2(a) of the GPDO requires the developer to submit a statement with the prior approval application setting out the evidence relied upon to demonstrate that the building was used solely for a storage or distribution centre use on the date referred to in paragraph P.1(a) and for the period referred to in paragraph P.1(b).
8. In this respect, the evidence submitted by the appellant is the delegated officer's report for an earlier refused planning application (ref HPK/2018/0075) for a change of use and the erection of a dwelling. In the officer's report, the Council acknowledged that the applicant in that case had asserted a B8 storage use. However, the Council did not need to be certain of the lawful use in determining the application. Moreover, while the Council had no evidence to dispute the stated use, it nevertheless noted that the site did not appear to have been in recent use.
9. The evidence before me indicates that the application was not acceptable on grounds relating to the living conditions of future occupiers and occupiers of neighbouring properties and in relation to impacts on highways. The reasons did not relate to the lawful use of the land. Furthermore, while the Council noted the applicant's assertion in respect of the use, it did not comment on the period of time or duration that the site had been in use for storage or distribution. The earlier application is not therefore substantive evidence of a B8 use for the purposes of the GPDO. Similarly, the presence of some building waste and materials on the site and in the building does not demonstrate that the proposal is permitted by Class P.
10. Therefore, it has not been demonstrated that the building was used solely for a storage or distribution centre on 19th March 2014 or for the associated four year period. Consequently, the proposal is not permitted by Class P of the GPDO. As I have concluded that the proposal does not benefit from the permitted development right, there is no need for me to consider the contamination risk in relation to the building.

Conclusion

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

Sarah Manchester

INSPECTOR