



Appeal Decision

Site visit made on 3 December 2019

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 January 2020

Appeal Ref: APP/W2465/W/19/3238101

2 Wilberforce Road, Leicester LE3 0GT

- 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 Kullar against the decision of Leicester City Council.
 - The application Ref 20191362, dated 17 July 2019, was refused by notice dated 27 September 2019.
 - The development proposed is notification of change of use from light industrial (Class B1(C)) to three self-contained flats (3 x 1 bed) (Class C3).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the description of the development from the decision notice as this is more succinct than the description given in the application form.
3. In the reason for the refusal the Council has indicated that the evidence does not demonstrate that the application building was solely used for a light industrial use Class B1(c) for a period of at least four years before the date of submission of the application. However, Class PA.1(b) does not contain such restriction. Therefore, I have not referred to this within my appeal decision.

Main Issue

4. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (GPDO), and in particular paragraph PA.1(b).

Reasons

5. Class PA of the GPDO permits a change of use from a building and any land within its curtilage from a use falling within Class B1(c) (light industrial) to a use falling within Class C3 (dwellinghouses). Development is not permitted where the building was not used for the Class B1(c) 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 (PA.1 (b)).

6. The appellant is required, amongst other things, to submit a statement setting out evidence to demonstrate that the site was solely in use as light industrial, Class B1(c), as set out in the time limitations of PA.1(b). The appellant contends that the lawful use of the building is B1(c) as it was previously used as a clothing manufacturer. This is supported by evidence of a utility water bill, utility telephone bill and customer invoices.
7. The Council state that the evidence is not conclusive that the building was in use solely for light industrial and that the site is currently used as storage. This is supported by the planning history from the site, of which, an email dated 17 July 2019 advises as such, and plans received by the Council on 22 May 2019 for a similar application (20190799), of which was withdrawn, annotated that the first and second floor are in use as storage. Furthermore, the signage at the premises indicates the use as a wholesaler and in combination with the shopfront entrance at ground floor suggests that the site is predominantly in use as storage/wholesale which would fall within use Class B8 and that the use is not predominantly light industrial.
8. Although the appellant has submitted evidence, this is very limited, whilst the invoices indicate that some form of distribution of clothing has taken place to third parties, there is no evidence of what manufacturing processes took place at the building. Moreover, there is no evidence as to over what period of time the property was used as a clothing manufacturer.
9. The appellant has raised concerns in respect of the Council's handling of the application, be that at is may, it would be a matter for the Council at that time if they required further evidence. However, in the GPDO, paragraph PA.2, it clearly sets out what the developer must submit and in paragraph W.(3) advises that an application may be refused, where in the opinion of the local planning authority the developer has provided insufficient information to establish if the proposals comply with any conditions, limitations or restrictions specified as being applicable in that Class.
10. On the basis of the evidence before me, insufficient evidence has been provided to demonstrate that on the balance of probability the appeal property was not solely in light industrial use, Class B1(c) on 19 March 2014 or when it was last in use before this date. I cannot therefore be satisfied the proposal is permitted development and as such I must find it is not. Therefore, the proposal would not comply with the express terms of permitted development set out in Schedule 2, Part 3, Class PA of the GPDO, particularly paragraph PA.1(b).
11. Given my conclusion above, there is no need for me to consider the prior approval matters as it would not alter the outcome of the appeal.

Conclusion

12. For the reasons given above, the appeal is dismissed.

KA Taylor

INSPECTOR