



Appeal Decision

Site visit made on 14 January 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2020

Appeal Ref: APP/D0840/W/19/3234995

Larks Mead, Regulator Road, St Kew, Near Wadebridge PL30 3HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Alan Jackson against the decision of Cornwall Council.
 - The application Ref PA19/02651, dated 24 March 2019, was refused by notice dated 27 June 2019.
 - The development proposed is described as '*Application for Notification for Prior Approval for a change of use of a light industrial building (Class B1(c)) and associated operational development to form one dwelling house (Class C3)*'
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Decision

1. The appeal is dismissed.

Background and Procedural Matters

2. I have taken the description of development from the appeal form and decision notice as none was given within the planning application form and as it most accurately describes the proposed development.
3. The appeal relates to a utilitarian building and associated land which occupies a rural location to the north of the small settlement of St Kew. Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (Amendments and Consequential Provisions) (England) Order 2015 (the GPDO) allows for the change of use of a building and any land within its curtilage from a light industrial (B1(c)) use to a use falling within Class C3 (dwellinghouses).
4. Development is not permitted by Schedule 2, Part 3, Class PA of the GPDO where the building in question was not used solely for a light industrial use on 19th March 2014 (the Relevant Date) 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. The decision notice sets out the Council's view that the building did not have a light industrial use on the Relevant Date. No other aspect of Schedule 2, Part 3, Class PA of the GPDO is in dispute, and I confined my assessment accordingly.

Main Issue

5. The main issue is whether or not the proposal would constitute permitted development having regard to Schedule 2, Part 3, Class PA of the GPDO.

Reasons

6. The appellant's evidence, which includes an affidavit, sets out the planning history of the site. It confirms that the building was constructed for livestock but in 1979 temporary permission was granted for the use of the site for the making and repairs of trailers. This lawful use ceased, pursuant to the sole

condition of that permission, on 31st July 1984. In 1989 a further permission¹ was granted for development described as '*continued use of the land for the making and repairing of car trailers*'. It is undisputed by the parties that this permission was implemented.

7. The appellant's evidence identifies that the site has been used continuously from 2005 onwards, inclusive of the Relevant Date, for the research and development of a domestic oil monitoring system², electrical conversion kits for Agas and latterly conversion kits for other similar types of cooker. I have no reason to doubt these circumstances.
8. However, the research and development of products or processes falls within Class B1(b), not Class B1(c)³, and is not applicable to Schedule 2, Part 3, Class PA of the GPDO. The appellant has also drawn to my attention the occasional use of the site for the storage of cars under use class B8. Although this may well be secondary to the main use, it nonetheless suggests a mixed, *sui generis* use at the site, which is outside the scope of Schedule 2, Part 3, Class PA of the GPDO. It is unclear if this was taking place on the Relevant Date, although, the Council has supplied imagery which suggests car storage in situ in 2018.
9. Under Schedule 2, Part 3, Paragraph W. (3) of the GPDO, an application may be refused where the developer has provided insufficient information to enable the decision maker to establish whether the proposed development complies with any conditions, limitations or restrictions as may be applicable to the development in question. The evidence in this case leads me unable to establish with any degree of certainty that the site has a lawful B1(c) use now or did so on the Relevant Date. I therefore conclude that the proposal would not be permitted development under Schedule 2, Part 3, Class PA of the GPDO.

Other Matters

10. The appellant has drawn my attention to the government's support for the appropriate reuse of rural buildings under the terms of Paragraph 79 of the National Planning Policy Framework and the environmental benefits that would be established through conversion of the building. However, the appeal before me relates to a legal test and therefore these matters are not determinative to my assessment.

Conclusion

11. For the reasons above, and considering all matters raised, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR

¹ Ref E1/89/3348

² 'Oli Guardian' patent No GB2475323

³ Town and Country Planning (Use Classes) Order 1987 (As amended)