



Appeal Decision

Site visit made on 16 January 2024

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal Ref: APP/E0345/X/22/3312747

The Moorings, Mill Green, Reading RG4 8EX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Ivan Carter, Duty Town Ltd against the decision of Reading Borough Council.
 - The application ref 220591, dated 21 April 2022, was refused by notice dated 2 December 2022.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is described as "B2 – General Industrial, The Maintenance and repair of boats".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of the use above, the Council determined the application referring to "Existing use as commercial boatyard." The Appellant has used this wording throughout the appeal, and I therefore consider there would be no prejudice in my determining the appeal using this description of the use.

Main Issue

3. The main issue in this case is whether the decision of the Council to refuse the certificate was well-founded. This will turn on whether the appellant has proved on the balance of probability that the site has been used as a commercial boatyard for a continuous period of ten years prior to the date of the application being made, and that this continued for 10 years after the date of change without having been abandoned.

Reasons

4. The appellant contends that the site has a longstanding use as a commercial boatyard since the late 19th century. Several historic maps have been submitted highlighting the appeal site although these are of little assistance establishing the use of the site, other than showing its existence and the presence of a building within.
5. There is also evidence from a previous licensee of the site, who occupied it from April 1993 until March 1995. This individual licenced the site to undertake conversion works, turning a Dutch oil tanker into a houseboat. The details show

that at the time this person's occupation began the site was totally overgrown and silted up. It was cleared and an electricity supply was installed. The conversion works entailed the removing of the oil tank and the installation of domestic accommodation, which necessitated the delivery of steel sheeting to the site.

6. While this activity is noted, it demonstrates that the land was occupied by an individual for their own personal activities of converting a vessel, rather than for any commercial purpose.
7. Following this, an individual occupied the site from 1996 to 2010, who states that they worked as a boat repairer. However, there is nothing more to support this, such as invoices for work or details of accounts. There is also reference to an individual running a marine upholstery business from the workshop that exists on site. However, this appears to be a separate business, and not part of any commercial boatyard business at the site. Moreover, similarly to the above, reference to this is not supported by any invoices or accounts.
8. The current owner indicates that the site was purchased in 2020. At this time, there were two large, above ground diesel tanks positioned alongside the wet dock and that these were approximately two-thirds full and intended for commercial use. There is also a reliance on the payment of business rates in respect of the appeal site since 1995. In my view, the presence of the fuel tanks is not determinative, or even persuasive, in terms of establishing any use of the site as a commercial boatyard. Furthermore, while business rates have been paid, the site is described for ratings purposes as "Moorings and Premises" and thus does not point toward any use as a commercial boatyard.
9. There is reference to the presence of a winch near to the slipway which is "capable of hauling boats out of the water onto dry land." Nonetheless, once more this does not demonstrate any commercial use of the site, simply that at times there was capability to haul boats from the water. There is nothing to show that this was done for any commercial purpose.
10. The application was accompanied by legal opinion which states that the site has had a longstanding boatyard use comprising of a covered wet dock and slipway, and a workshop building. It is contended that all of this was constructed before 1 July 1948 and there has been no abandonment or extinguishment since this time. However, there is nothing that establishes what use the site was put to at this date. While the built development was in existence, there is nothing to show that it was used for the purposes of a commercial boatyard. This therefore does little to advance the appellant's case.
11. I am also conscious that there is various evidence of the site comprising an orchard at some point, as well as comments from several nearby occupiers attesting that the site has not been used as a commercial boatyard within the scope of their knowledge. The Council's Delegated Application Report refers to a request for pre-application advice and at that time the relevant officer considered that the site was in use as a leisure plot.
12. I therefore consider that the information submitted is not sufficiently unambiguous or precise to establish, on the balance of probabilities, that the lawful use of the appeal site is that of a commercial boatyard. As a result, it is not necessary that I consider whether such use has at any point been abandoned.

13. Thus, the appeal must fail.

Conclusion

14. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a commercial boatyard was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Martin Allen

INSPECTOR