



Appeal Decision

Site visit made on 25 March 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2024

Appeal Ref: APP/A0665/W/23/3326497

The Spinney, Hallsgreen Lane, Wimbolds Trafford, Chester, Cheshire West and Chester CH2 4JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr R Hamer against the decision of Cheshire West and Chester Council.
- The application Ref is 23/01593/PMA.
- The development proposed is change of use to one dwellinghouse.

Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal site obtained retrospective planning permission¹, subject to conditions, in November 1997 for change of use of land from agricultural to timber storage and associated workshop.
3. This appeal seeks to convert a building on the site to a dwellinghouse under Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Development permitted by Class MA, allows for change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (UCO).
4. The Council's reason for refusal states that the building does not fall within Class E of the UCO and therefore prior approval cannot be granted as the proposal falls outside the scope of Class MA. Consequently, the main issue is whether the existing building falls within the definition of Class E of the UCO and therefore complies with Class MA of the GPDO.

Reasons

5. The appeal building is a modest sized steel and timber framed structure with an external finish consisting of a mixture of concrete blockwork and metal sheeting. I observed on my site visit that the appeal building is currently being used for the storage of various items and materials, including a small dumper truck, tiles, paint and various pieces of timber and metal.
6. As detailed above, planning permission was granted in November 1997 for the use of land, including this building, for timber storage and associated workshop.

¹ Council Ref: 97/01108/COU

The approved decision notice however does not specify the exact use class this approval was permitting, although the accompanying Delegated Officer Report does state that "*The proposal cannot realistically be classified as light industrial...*".

7. The appellant contends that the lawful use of the building can only be one use, and this use falls within Class B1, which is now Class E as per the amended UCO. To support this view the appellant refers to Condition No.5 on the aforementioned planning permission which states "*The use shall be carried out in such a manner as not to affect the amenities of the neighbourhood by reason of noise, vibration, sound, smoke, fumes, ash, dirt or grit...*". The appellant's submission demonstrates that these words are similar to those used to describe Class B1 uses within the previous UCO.
8. Having considered all the submitted evidence, I am not persuaded by the appellant's argument that the building can only have one use and that this use falls within former Class B1. I am of the opinion that the timber storage element of the use, which is referred to in the description of the previous approval from 1997, falls within Class B8 of the UCO. Furthermore, and as mentioned earlier, I observed on my site visit that the building was currently being used for storage purposes.
9. I do however acknowledge that the workshop element of the building does fall within former use Class B1, hence the wording used within Condition No.5 of the previous approval from 1997. As such, I accept that the workshop element of the building would fall within Class E of the amended UCO.
10. Nevertheless, I conclude that the use of the land and building as permitted by application Ref: 97/01108/COU had a mixed use consisting of Class B8 (timber storage) and Class B1 / Class E (associated workshop), and this is consistent with my observations during my site visit where the building was clearly currently being used for the storage of materials and various items.
11. In coming to this view, I note the appellant's submission that the building was previously used to construct dog kennels with associated timber storage. However, for the reasons set out above, I conclude that the appeal building, and site, has been used at least in part for Class B8 (storage) in addition to any Class E (workshop) use. The proposal therefore encompasses a building not falling solely within Class E of the UCO, and consequently fails to comply with Schedule 2, Part 3, Class MA of the GPDO, therefore prior approval cannot be granted.
12. I note that condition No.2 on the previous approval from 1997 appears to restrict any change of use of the building from that which was applied for within that proposal. However, given that I have dismissed the appeal on other grounds it is not necessary to address this matter any further.

Conclusion

13. For the reasons given above, I conclude that the appeal should be dismissed.

R Major

INSPECTOR