

Delegated Report



Application number:	1/1088/2018/COUPD
Registration date:	11 October 2018
Expiry date:	6 December 2018
Applicant:	Mr William Laverick
Agent:	Collier Planning
Case Officer:	James Clements
Site Address:	Water Tower, Higher Clovelly, Devon,
Proposal:	Notification for prior approval for a change of use from B8 storage or distribution building (former water tower) and any land within its curtilage to dwellinghouse (Class C3)
Recommendation:	GRANT

Relevant History:

Application No.	Description	Status	Closed
1/0605/2018/CPL	Certificate of proposed lawful use for insertion of new door and window openings to existing storage building	PER	24.09.2018

Site Description & Proposal

Site description:

The application site is a concrete water tower which measures approximately 11.9m in width at groundfloor, 14.3m wide above and 11.3m in height. The site is accessed from a private drive approximately 100m in length from the A39 to the north of the site. The access and site has boundary fencing and hedging situated either side separating it from the adjoining fields. There is a small area of associated land surrounding the water tower.

The water tower is no longer used to store water and was decommissioned by South West Water approximately 10 years' ago.

To the north of the site in close proximity is a telecommunications mast and associated infrastructure, which is independent from the application site.

Proposed development:

Notification for prior approval has been submitted for a change of use from B8 storage or distribution building (former water tower) and any land within its curtilage to dwellinghouse (Class C3). The application is submitted pursuant to Article 3, Schedule 2, Part 3, Class P of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - GPDO.

Consultee representations:

Clovelly Parish/Town Council:

None received.

Devon County Council (Highways):

The site is accessed off the A39, the largest and most strategic road in Torridge. This is subject to national speed limit and where the access joins the road it is a wide and straight road and I estimate the 85%ile vehicle speed is at or above 60mph. There is no footway on either side of the A39 in this location and there is no other alternative pedestrian access to this site.

It is clear to me that the proposal would not address the fundamental considerations within the NPPF (paragraphs 108 & 110) in that it does not give priority first to pedestrian and cycle movements; it does not address the needs of people with disabilities and reduced mobility in relation to all modes of transport; it does not create a place that is safe, secure and attractive minimising conflicts between pedestrians, cyclists and vehicles; it does not provide for safe and suitable access for all users.

The proposal should therefore be refused for the above reasons.

Environmental Protection:

In relation to the above application, it is noted that the proposed development neighbours an operational telecommunications mast approximately 20 metres to the north. As the application proposes to place a dwelling in close proximity to the telecommunications mast, the potential health impact on future occupants from exposure to electromagnetic forces must be considered. It is noted that the telecommunications mast has been the subject of numerous planning applications, for example with the installation of additional equipment. Although 'Declaration of Conformity with ICNIRP Public Exposure Guidelines' certificates have been produced on previous applications, the closest existing dwelling is approximately 200 metres in distance. Due to the close proximity of the telecommunications mast to the proposed dwelling, development of relevant guidance and the additional equipment that has been installed to the mast since its erection, the applicant should undertake an appropriate assessment testing the associated electromagnetic forces. The assessment should be in accordance with ICNIRP (International Commission on Non-Ionizing Radiation Protection) and other appropriate UK guidance in order to ensure compliance with public exposure guidelines and prevent any adverse health impacts.

Although the application site adjoins the A39 highway, the area is likely to experience low background noise levels, particularly during the night time period. It is noted that infrastructure, including an electricity sub-station, is located at the telecommunications mast site and, as a result, there is the potential for an adverse impact on residential amenity due to noise emissions from the plant. The Environmental Protection Team recommends that the applicant undertakes an appropriate noise assessment to evaluate the potential noise impact on the proposed dwelling from the infrastructure. The assessment should be carried out by a suitably qualified individual with membership of a recognised organisation.

It is not apparent whether the proposed dwelling will be served by a mains sewer or private drainage provision. If a non-mains foul drainage provision is to be implemented, the Environmental Protection Team would require detailed information, including an FDA assessment form and percolation tests, on the proposal in order to assess its suitability.

Representations:

Number of neighbours consulted:	0	Number of letters of support:	0
Number of representations received:	0	Number of neutral representations:	0
Number of objection letters:	0		

None received.

Policy Context:

Government Guidance:

Article 3, Schedule 2, Part 3, Class P of Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Planning Considerations

The main consideration with this application is whether or not the proposal represents permitted development under the terms of GPDO. For the proposal to be considered as permitted development it must satisfy the criteria set out at Article 3, Schedule 2, Part 3, Class P of the GPDO.

The submitted plan indicates parking and turning for two vehicles and an amenity area to the north of the tower. Each of the relevant criterion is set out below, with confirmation of whether or not the proposal satisfies the criterion.

Permitted development

P. 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) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development not permitted

P.1 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;

The site has a lawful B8 (Storage and distribution) planning use.

(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;

The building was used solely for storage in the last 4 years.

(c) the use of the building falling within Class C3 (dwellinghouses) of that Schedule was begun after 15th April 2018;

No.

(c) the prior approval date falls on or after 10th June 2019;

No.

(d) the gross floor space of the existing building exceeds 500 square metres;

Gross floor area does not exceed 500sqm.

(e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

Not under an agricultural tenancy.

(f) less than 1 year before the date the development begins—

(i) an agricultural tenancy over the site has been terminated, and

(ii) the termination was for the purpose of carrying out development under this Class, unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural purposes;

Not relevant.

(g) the building is within—

(i) an area of outstanding natural beauty;

No - AONB located to the north of the A39.

(ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;

(iii) the Broads; or

(iv) a National Park;

(v) a World Heritage Site;

(h) the site is, or forms part of—

(i) a site of special scientific interest;

(ii) a safety hazard area;

(iii) a military explosives storage area;

(i) the building is a listed building or is within the curtilage of a listed building; or

(j) the site is, or contains, a scheduled monument.

The site is not within an area listed above.

(k) the development is not completed within a period of 3 years starting with the prior approval date.

Conditions

P.2 Development is permitted by Class P subject to the condition that before beginning the development, the developer must—

(a) submit a statement, which must accompany the application referred to in paragraph (b), to the local planning authority setting out the evidence the developer relies 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);

A Certificate of Lawfulness for Proposed Development (1/0605/2018/CPL) was issued on 24th September 2018 for the insertion of new door and window openings to the water tower building, in accordance with Part 7, Class H of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The certificate in effect confirms that the building has continued to have a B8 planning use since being sold by south west water.

(b) apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

(i) impacts of air quality on the intended occupiers of the development;

No impacts.

(ii) transport and highways impacts of the development,

The Highway Authority has objected on sustainability grounds given the lack of pavement to and from the site. However, this is not considered to be relevant matter in which to refuse a Class P application. The existing access has appropriate visibility and sufficient parking provision is proposed. There would be no adverse harm to highway safety.

(iii) contamination risks in relation to the building,

Whilst not strictly a contamination risk to be assessed as part of Class P, the Council's Environmental Protection Team (EPT) has raised concerns regarding exposure to electromagnetic forces. A ICNRIP compliance certificate has however been submitted with the application.

The EPT has also requested additional details of foul water drainage. However, it is considered that foul drainage provision would be addressed through the Building Regulations.

(iv) flooding risks in relation to the building,

None.

(v) noise impacts of the development, and

Noise concerns from the communications mast and sub station have been raised by the EPT. However, audible noise was not noticeable during the planning officer site visit either outside near the boundary with the communication mast or from within the concrete water tower.

(vi) where the authority considers the building to which the development relates is located in an area that is important for providing storage or distribution services or industrial services or a mix of those services, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

The site is not located in an area where it is important that the provision of a B8 use is retained.

Interpretation of Class P

P.3 For the purposes of Class P—

"curtilage" (except in paragraph P.1(i)) means—

(a) the piece of land, whether enclosed or unenclosed, immediately beside or around the building in storage or distribution centre use, closely associated with and serving the purposes of that building, or

(b) an area of land immediately beside or around the building in storage or distribution centre use no larger than the land area occupied by the building, whichever is the lesser;

The proposed curtilage meets definition (b).

"general industrial use" means a use falling within Class B2 (general industrial) of the Schedule to the Use Classes Order;

"industrial services" means services provided from premises with a light industrial use or general industrial use;

"light industrial use" means a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order;

"storage or distribution centre use" means a use falling within Class B8 (storage or distribution) of the Schedule to the Use Classes Order; and

"storage or distribution services" means services provided from premises with a storage or distribution centre use.

Conclusion:

Taking account of the above, it is concluded that the proposed development represents permitted development under Article 3, Schedule 2, Part 3, Class P of the General Permitted Development Order.

Consideration has been given to the Human Rights Act 1998.

Conclusion

It is therefore considered that subject to the compliance with the attached conditions and taking into account all other material planning considerations, including the development plan the proposal would be acceptable.

Recommendation

GRANT subject to the following conditions

- 1

The development shall be completed before the expiration of 3 years from the date of prior approval being granted.

Reason: The time limit condition is imposed in order to comply with the time requirements of P.1 (k) of Class P, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended).
- 2

The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.

Reason: To ensure the development is carried out in accordance with the approved plans.

Plans Schedule

Reference	Received
18 123 02	10.10.2018
18 123 03	10.10.2018
18 123 04	10.10.2018