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## Appeal Decision

Site visit made on 23 September 2020

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2020

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**Appeal Ref: W/4000857**

**Pebble Court Farm, Woodgate Lane, Borden, ME9 7QB**

- 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 Michael Miller against the decision of Swale Borough Council.
  - The application Ref 19/506446/PNPA, dated 24 December 2019, was refused by notice dated 3 February 2020.
  - The development proposed is Prior Notification for change of use of 1 no. building from light industrial (Class B1 (c)) to 2no. dwellings (Class C3). For its prior approval to: - Transport and Highways impacts of the development - Contamination risks on the site - Flooding risks on the site - Where the building is located in an area that is important for industrial services or storage or distribution 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.
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### Decision

1. This appeal is dismissed.

### Preliminary Matters

2. No description of development is given on the application form, so I have used the description from the Council's decision notice which adequately and clearly describes the proposed development.
3. There is another appeal made by the appellant on land which includes the appeal site for conversion to a four bedroom dwelling and home office. For the avoidance of doubt, I have determined these appeals on their individual merits.

### Main Issue

4. The main issue is whether the proposal would be permitted development, with particular regard to whether the requirements of Part 3, Class PA of Schedule 2 of the GPDO<sup>1</sup> would be met, in terms of whether the appeal site was last in B1c use.

### Reasons

5. I am provided with a certificate of lawfulness for this site from 1993 which describes the uses as including: valeting and minor repair of motor cars, conversion of vans to minibuses, operation of a private self drive hire fleet of minibuses, the assembly and testing of solar panels.

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<sup>1</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015

Appeal Decision W/4000857

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6. The Use Classes Order<sup>2</sup> specifically describes a 'business for the hire of motor vehicles' as having no class specified in the Schedule (sui generis). Therefore, the certificate, which includes that the site was used for 'operation of a private self drive hire fleet of minibuses' shows that the building was not used solely for a B1c use.
7. Even if this planning use did not cease in 2009, the evidence of when the building was last in use does not demonstrate that it was for a solely B1c use.
8. I therefore conclude that the appeal site was not last in use for a solely light industrial use. As such the development would not comply with Part 3, Class PA of Schedule 2 of the GPDO and would not be permitted development.

#### **Other Matters**

9. My attention has been drawn to application 19/501171/PNPA, where there was said to be mixed uses on the site but the Council concluded that it was in light industrial use. Given that the use (making teddy bears) and therefore the evidence in that case was not the same as the appeal site, that application is notably different to the one before me now.
10. The principle of development would be established by the GPDO, and therefore the benefits of the development would be relevant only insofar as they relate to any prior approval matters. Consequently, and given my findings above, issues that have been raised in this regard including increasing the supply of housing, whether the development would be sustainable, that the proposal would develop brownfield land and convert an existing building, along with the Council's lack of 5 year housing land supply, would not be determinative in this case.

#### **Conclusion**

11. For the reasons above, this appeal should be dismissed.

*H Miles*

INSPECTOR

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<sup>2</sup> The Town and Country Planning (Use Classes) Order 1987