

Appeal Decision

Site visit made on 20 March 2017

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 April 2017

Appeal Ref: APP/Y3425/X/16/3163183

Saxons Hollows, Bury Bank, Meaford, Stone, Staffordshire ST15 0QA

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr and Mrs Robert Crossland against the decision of Stafford Borough Council.
 - The application Ref 16/24318/LDCP, dated 6 June 2016, was refused by notice dated 2 August 2016.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which an LDC is sought is an outbuilding falling within Class E of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed development which is considered to be lawful.

Reasons

2. Saxons Hollow is a substantial two storey dwelling set within a large residential plot that includes a detached garage, a summerhouse and a tennis court. The property has a planning history but only one of the applications is relevant to this appeal; LDC application no. 15/22745/LDCP for the erection of an outbuilding for purposes incidental to the enjoyment of Saxons Hollow (including home office, cinema room, gym, swimming pool and changing facilities, double garage and plant room), which was granted by the Council on 11 September 2015.
 3. The Council accepts that the outbuilding would be within the curtilage of the dwellinghouse and that it would satisfy the dimensional conditions of Class E of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). The Council also acknowledges that "...all of the uses and activities to be accommodated within the building would individually be accepted as incidental and ancillary to the enjoyment of the dwellinghouse". They maintain, however, that the proposed outbuilding, given its size and scale, cannot be considered to be required for purposes incidental to the enjoyment of the occupiers of the existing dwelling.
 4. The main issue is whether the outbuilding, taking account in particular of its size and scale, is required for purposes incidental to the enjoyment of the dwellinghouse. The case of *Emin v SSE and Mid-Sussex District Council* [1989] 58 P & CR 416 (Emin) established that "The term 'required' is...interpreted for the purposes of applying Class E as meaning 'reasonably required'".
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5. The outbuilding now proposed would be larger than that which is the subject of LDC 15/22745/LDCP by about 56 square metres; all of the increase in size being in the southern section of the building. The plant room in the southern section of the 'approved' outbuilding would become a changing room with two changing cubicles, a toilet cubicle and a changing area, and the section would be 'extended' by the addition of a plant room, a garden store and a log store.

6. The Council accepts that "...it would not be unreasonable to provide a garden store" and for a residential plot of such a size this facility is reasonable. The garden store would not be large enough for the storage of logs in addition to machinery and, furthermore, there would be an insufficient free flow of air within the wholly enclosed store for it to be an effective location for such a use. The provision of a covered area, open on two sides, for the storage of logs is therefore also reasonable.

7. The plant room would be slightly larger than that 'approved' and the Council has not sought to query this element of the proposed outbuilding. The plant room is commensurate in size to the outbuilding it would serve. The size of the proposed changing room and the facilities it provides is not inappropriate or unreasonable given that the outbuilding would include a substantial swimming pool, a steam room and a sauna. The changing room is commensurate in size to the facilities it would be associated with.

8. Taking the aforementioned deductions into account it is reasonable to conclude that the outbuilding now proposed would be reasonably required for purposes incidental to the enjoyment of the dwellinghouse, Saxons Hollow.

9. For the reasons given above the Council's refusal to grant an LDC in respect of an outbuilding falling within Class E of Part 1 of Schedule 2 of the GPDO at Saxons Hollows, Bury Bank, Meaford, Stone, Staffordshire was not well-founded and the appeal thus succeeds. The powers transferred under section 195(3) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 6 June 2016 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and cross hatched in black on the plan attached to this certificate, would have been lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The operations are development permitted under the provisions of Class E of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015

Signed

John Braithwaite

Inspector

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First Schedule

Outbuilding falling within Class E of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015

Second Schedule

Land at Saxons Hollows, Bury Bank, Meaford, Stone, Staffordshire

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 24 April 2017

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Scale: not to scale

