
Appeal Decision

Site visit made on 19 May 2017

by Sandra Prail MBA, LLB (Hons), Solicitor (non-practising)

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

Decision date: 14 June 2017

Appeal Ref : APP/G5180/X/16/3165432

Land at 148 Croydon Road, Beckenham, BR3 4DE.

- 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 lawful development certificate by the Council of the London Borough of Bromley dated 24 November 2016.
- The appeal is made by Mr Bradley Blair.
- The application ref DC/16/04520/PLUD was dated 27 September 2016.
- The application was made under section 192 (1) of the Town and Country Planning Act 1990 as amended.
- The development for which a lawful development certificate is sought is 'setting up a cab office and this is a temporary address to apply for operators licence no trade will be taking place from this address. If licence is approved will move to a shop where trading will commence'.

Summary of Decision: the appeal is dismissed

Preliminary Matters

1. For the avoidance of doubt I should explain that the planning merits of the development are not relevant to this appeal which relates to an application for a lawful development certificate (LDC). My decision rests on the facts of the case and the interpretation of any relevant planning law or judicial authority. The burden of proving relevant facts rests on the Appellant and the test of evidence is made on the balance of probability.
2. Section 192 of the 1990 Act (as amended) does not afford the power to alter the description of development. I therefore have based this decision on the description set out in the application form as shown in the header above.

Main Issue

3. I consider that the main issue is whether the Council's decision to refuse to grant a LDC was well-founded.

Reasons

4. The appeal site is a mid terrace residential dwelling.
5. Section 192 of the 1990 Act provides that if any person wishes to ascertain whether a proposed use of buildings or land or operations would be lawful they may make an applications to the local planning authority specifying the

land and describing the use or operations in question. The burden of proof rests firmly on the applicant.

6. In this case the description of development set out in the application is not clear and precise. It does not describe in any detail what is meant by setting up a cab office or what is involved in being a temporary address. The application was accompanied by a plan (which indicated the parking of cars in an adjacent road), a disclosure barring service certificate and emails.
7. I agree with the Council that the application and supporting information does not set out the proposal with sufficient clarity to enable the Council to understand exactly what is involved. The Appellant does not provide enough information to enable the Council to properly assess the application. The Appellant asserts that the proposal is not to run a business or trade but provides little information about what is proposed. The applicant has not discharged the onus upon him to describe the proposed use or operation with sufficient detail to enable the Council to consider whether the proposal would be lawful. There is insufficient evidence to demonstrate whether the proposal would constitute development for the purposes of section 55 of the 1990 Act.
8. For the reasons given above I conclude that the Appellant has failed to clearly describe the proposal and to show that it is lawful. The Council's refusal to grant a LDC was well-founded, and the appeal should not succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Formal Decision

9. The appeal is dismissed.

S. Prail

Inspector