The Planning Inspectorate

Appeal Decision

Site visit made on 7 August 2017

by B.S.Rogers BA(Hons) DipTP MRTPI

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

Decision date: 10 August 2017

Appeal Ref: APP/Y3425/X/17/3170096
The Gables, Yarlet Lane, Marston, Stafford, Staffordshire, ST18 9ST

- 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 Francis Paul Simmons against the decision of Stafford Borough Council.
- The application Ref: 16/25056/LDC, dated 10 October 2016, was refused by notice dated 13 December 2016.
- The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of lawful use or development is sought is a proposed storage unit.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is whether the Council's decision to refuse the application was well-founded. The onus of proof in an application for a LDC rests with the appellant, the relevant test of the evidence being the balance of probability. The planning merits of the use are not matters that I am able to take into consideration in this type of case.

Reasons

3. The proposal is for a building to be sited within the residential curtilage of The Gables, a substantial detached house in a large plot within a rural area. The building would have a footprint of 12m by 16m, with a maximum ridge height of 4m and a maximum eaves height of 2.5m. It would have a steel frame, walls clad in plastic coated sheeting and roof clad in fibre cement sheeting.

4. There is no contention by the Council that the proposed building would fail to comply with the dimensional, or any other limitations set out in Class E.1 of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). My understanding is that the sole matter in dispute is whether the building would be required for a purpose incidental to the enjoyment of the dwellinghouse as such.

5. The GPDO uses the unqualified wording "required". However, the courts have indicated that the keynote as to whether the purpose of a proposed outbuilding

is incidental to the enjoyment of the dwellinghouse is reasonableness[1] [2]. What is abnormal is not necessarily unreasonable but what could be regarded as incidental does not depend on the unrestrained whim of the occupier; there must be an element of objective reasonableness. The size of the building could be an indication as to whether the activities carried on are incidental to the use of the dwellinghouse as such but is not, of itself, determinative of compliance with the terms of Class E. It follows that the onus is on the appellant to show that the proposed outbuilding is reasonably necessary.

6. The appellant has indicated that the building is required to store his private collection of classic vehicles and associated spare parts. In principle, such a use could be incidental to the use of the dwellinghouse as such. However, that would depend on the size and nature of the collection and the way in which it was used, for example whether there was any commercial element to the use. The appellant states that the collection is currently stored in a larger building, in a remote, unoccupied site, which is subject to interference and vandalism. The collection needs to be stored securely.

7. The proposed building appears to be an unusually large outbuilding in a domestic context, having a floor area considerably larger than that of the house itself. Its design and materials are of an agricultural/industrial nature. The presence of other former agricultural buildings in this rural location is not of relevance to the question as to whether this particular building is reasonably necessary. Moreover, I note that, in this case, there is already a very large outbuilding on site which includes garaging and, presumably, some storage space. I have seen no indication as to how this building is used and whether it could offset the need for such a large additional building.

8. The appellant has not provided clear evidence of the content of his vehicle collection, such as vehicle makes, models and registration numbers, or how the collection is used or operated. There is no indication of the extent of the collection of spare parts. He has provided no clear evidence of how and where the collection is currently stored and only a generalised reference to why this may be inadequate.

9. In conclusion, on the evidence provided to me, the appellant has failed to show that, on the balance of probability, the proposed outbuilding is required for a purpose incidental to the enjoyment of the dwellinghouse as such, bearing in mind the test of reasonable necessity. Therefore, I consider that the Council's decision to refuse to grant a lawful development certificate was well-founded and that the appeal should fail.

B.S.Rogers

Inspector

[1] Croydon LBC v Gladden [1994] 1 PLR 30
[2] Emin v SSE [1989] JPL 909