



Appeal Decision

Site visit made on 11 March 2019

by Tim Belcher FCII, LLB(Hons), Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 30 September 2019

Appeal Ref: APP/P1615/X/18/3202401

The Tynings Stables, Walmore Hill, Minsterworth, Gloucester, GL2 8LA

- The appeal is made under Section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the 1990 Act") against a refusal to grant a Certificate of Lawful Use ("CLU").
- The appeal is made by David Woodward against the decision of the Forest of Dean District Council ("the Council").
- The application Ref P1935/17/LD1, dated 7 December 2017, was refused by notice dated 24 April 2018.
- The application was made under Section 191(1)(a) of the 1990 Act.
- The use for which a CLU is sought is the conversion of former stables to an independent dwelling together with the change of use of land and outbuildings to residential use.

Summary of Decision: The appeal is allowed, and a CLU is issued, in the terms set out below in the Formal Decision.

Procedural Matters

1. In my Appeal Decision I will refer to:
 - a) The former stables, part of which is now used as a dwelling-house' as "the Stables".
 - b) The large former dwelling-house labelled on the application plan as The Tynings as "The Tynings".
2. The application referred to the change of use of land and outbuildings to residential use. However, it is clear from the evidence and the representations made that these uses have not been carried on for ten-years and therefore cannot be lawful within the terms of the 1990 Act.
3. At the site visit I was advised that there was another building close to the Stables which was being used as a dwelling-house separately from the Stables. The lawfulness of that use is not a matter which can be determined through this appeal as all the relevant evidence relates to the use of part of the Stables as a dwelling-house.
4. At the site visit it became apparent that part of the Stables did not form part of the dwelling-house – it was used for storage of miscellaneous items. It was not accessed from the dwelling-house at the Stables but from an external door. In my view this part of the Stables was not in use as part of the dwelling-house. An amended plan was submitted which identified that part of the Stables which was in use as a dwelling-house. That plan is used in the CLU attached to this Appeal Decision.

Relevant Background Matters

5. The Tynings was, at one time, a dwelling-house. The Tynings and adjoining land and buildings (which included the Stables) were owned by the same person and this probably comprised a single planning unit.
6. In about November 2005 planning permission was granted to change the use of The Tynings to a care home for four residents.
7. In about May 2008 planning permission was granted to increase the number of residents at the care home to seven.
8. I am advised that a septic tank was installed so as to serve the Stables prior to its residential use commencing.
9. In about January 2012 William Andrew commenced works to convert the Stables to a dwelling-house. At or about the same time Paul Gisbourne carried out electrical works at the Stables. William Andrew, his wife and family moved in to the Stables in about April 2012 when the conversion works had been completed. Mr Andrew confirmed that further improvements were made to the Stables but there is no suggestion that the Stables was used for anything other than a dwelling-house after April 2012.
10. Both Mr and Mrs Andrew worked in different capacities at the care home at The Tynings. There is no evidence before me that their residential use of the Stables was required as part of their contract of employment at the care home.
11. A visit to the Stables was carried out by an Enforcement Officer from the Council prior to 7 August 2012. The Council were clearly aware of the residential use of the Stables by that date. A letter dated 7 August 2012 from the Council was sent to Mr and Mrs Andrew regarding the unlawful residential use of the Stables. The Council's letter to Mr and Mrs Andrew required them to cease the residential use of the Stables or to apply for planning permission.
12. On 25 August 2012 Mr and Mrs Andrew wrote to the Council and stated that they intended to apply for planning permission to use the Stables as a dwelling-house. No such application was made.
13. Mr Gisbourne confirmed that he carried out various electrical works at the Stables between 2012 and 2017 and that throughout that period the Stables has been used as a dwelling-house.
14. Mr and Mrs Andrew and their family left the Stables in about July 2014.
15. From about mid-2014 to the present-day David Woodward and his wife have occupied the Stables as a dwelling-house. During part of that time their son, and daughter were also in occupation of the Stables with them.
16. In about March 2017 The Tynings (and its associated care home business) was sold as a going concern by David Woodward and his wife. They retained ownership of the Stables and adjoining land.

Reasons

17. It is clear from the chronology of events that on the balance of probabilities the residential use of the Stables commenced in about April 2012 and has

continued since that date. As the residential use has been carried out continuously for more than four years the use is lawful.

18. I am aware that the evidence submitted by David Woodward is not in the form of Statutory Declarations but that is not always necessary. There is no evidence before me to suggest that David Woodward's version of events is incorrect or in any way less than probable.

Overall Conclusion

19. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a CLU in respect of the conversion of the former stables to an independent dwelling was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under Section 195(2) of the 1990 Act and I shall grant a CLU.

Formal Decision

20. The appeal is allowed and attached to this Appeal Decision is a CLU describing the existing use which is considered to be lawful.

Tim Belcher

Inspector



Certificate of Lawful Use ("the Certificate")

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(as amended by Section 10 of the Planning and Compensation Act 1991) ("the 1990 Act")

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

IT IS HEREBY CERTIFIED that on 7 December 2017 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the Plan attached to the Certificate, was lawful within the meaning of Section 191(2) of the 1990 Act, for the following reason:

The use was lawful on 7 December 2017 as no enforcement action could then be taken against it because the time for taking enforcement action had expired and the use did not constitute a contravention of any requirement of any Enforcement Notice then in force.

Tim Belcher

Inspector

Date: 30 September 2019

Reference: **APP/P1615/X/18/3202401**

First Schedule

The conversion of former stables to an independent dwelling

Second Schedule

The Tynings Stables, Walmore Hill, Minsterworth, Gloucester, GL2 8LA

NOTES

The Certificate is issued solely for the purpose of Section 191 of the 1990 Act.

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule was lawful, on the certified date and, thus, was not liable to enforcement action, under Section 172 of the 1990 Act, on that date.

The Certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached Plan. Any use 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 Council.



Plan

This is the Plan referred to in the Certificate dated: 30 September 2019

by **Tim Belcher FCII, LLB(Hons), Solicitor (Non-Practising)**

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