



Appeal Decision

Site visit made on 14 January 2020

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2020

Appeal Ref: APP/J0350/X/19/3228684

193 Vicarage Way, Colnbrook, Slough SL3 0RD

- 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 Hashem Jamalzadeh against the decision of Slough Borough Council.
 - The application Ref P/16862/002, dated 10 January 2019, was refused by notice dated 22 March 2019.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is: Change of use from a C3 (dwellinghouse) to C4 (small house in multiple occupation).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse the certificate was well-founded or not.

Reasons

3. On 22 May 2017 planning permission Ref P/16862/000 was granted for an extension to the building. Based on the information available to me, including my observations on my site visit, that permission was lawfully implemented. It was subject to planning conditions, of which condition 5 states:

"The extension hereby permitted or any part of dwelling house and shall not be sub-divided or used in multiple occupation."

REASON To ensure that the site is developed in accordance with the submitted application and to ensure that the proposed development does not prejudice the amenity of the area, which may occur if the property [is sub-divided]"

4. The condition contains drafting errors including the omission of the words in square brackets. Despite this, even in the absence of the words in square brackets, I am satisfied the condition is sufficiently precise to make clear that the property may not be used in multiple occupation and that a legitimate reason for the condition is included. As such, a permitted development right to change the use of the property from a dwellinghouse to a small house in multiple occupation does not exist. The proposal does not comply with the above condition and therefore is not lawful.

5. Correspondence has been provided which appears to claim the 2017 permission noted above is invalid or not extant. But no evidence has been provided which satisfies me that the permission was not lawfully implemented or that it has been revoked or modified in any way. As such, condition 5 noted above continues to have effect and the proposed change of use is not lawful.

Other Matters

6. My attention has been drawn to examples of other cases which are said to be similar. But there is no evidence to indicate that the facts in those cases are identical to those in this case and in any event, planning merits (including precedent) are not relevant to the consideration of a lawful development certificate.
7. My attention has also been drawn to comments made by officers of the Council and third parties. But none of these have led me to a different conclusion. The appellant's dissatisfaction with the Council and third parties is not a matter for me to consider in the context of an appeal under section 192 of the above Act. It is open to the appellant to apply for planning permission to remove condition 5 of the 2017 permission if they wish, and any such application would be unaffected by my determination of this appeal.

Conclusion

8. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a change of use from a C3 (dwellinghouse) to a C4 (small house in multiple occupation) was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

L Perkins

INSPECTOR