



Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2020

Appeal Ref: APP/R5510/X/19/3237684
15 Lawn Avenue, West Drayton, UB7 7AQ

- 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 James Reid against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref: 57549/APP/2019/2111, dated 22 June 2019, was refused by notice dated 16 August 2019.
 - 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 described as "Demolition of existing outbuilding (E) and rebuild".
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Decision

1. The appeal is dismissed.

Procedure

2. The Planning Inspectorate initially arranged for this appeal to be determined following a site visit. The file has subsequently been reviewed to consider the optimal procedure for the appeal. It appeared that the appeal could be determined on the papers – that is, without a site visit – without causing prejudice to any party. This is because the case turns on legal points and the parties have submitted sufficient plans, photographs and documentary evidence to understand the nature of the site, the grounds of appeal and the point in dispute. The parties were contacted about this and no objections were raised to the appeal proceeding without a site visit.

Main Issue

3. There are currently seven buildings/structures of varying styles and materials located in the rear garden of the host property. They are denoted by letters A to E on the submitted plans and I have had regard to the appellant's photographs of the buildings in the garden. It is proposed to replace building E, in the far south-west corner, with the proposed building.
4. The Council has suggested that building E does not accord with permitted development rights, although it is not clear why that may be the case other than it is stated it is attached to two existing buildings. The appellant asserts that all the buildings have been in place for over 10 years and notes that

having been in place for over four years at the date of the application, they are now lawful. However, the LDC application I am considering is for development under s192(1)(b) of the 1990 Act which is for operations to be carried out. Furthermore, just because the new building would be no larger than the footprint of the existing building, this in itself would not lead me to conclude the new building would be lawful. With the old structure gone, the new building would be new development. The appellant accepts that is the case.

5. The context for considering the lawfulness of the proposed new building is whether it would accord with the conditions and limitations under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). The only concern raised by the Council in this respect is that the proposed outbuilding, in conjunction with the existing garage/outbuildings, by reason of their cumulative size and scale, would not be development required for a purpose incidental to the enjoyment of the dwellinghouse.
6. In view of the above, the main issue is whether the activity is one that might, as a matter of fact and degree, be reasonably required of the primary residential use of the dwellinghouse as such. The burden to make out the case, that such a development would be lawful, rests with the appellant.

Reasons

7. A building within the curtilage of a house used for storage as that proposed here would ordinarily be considered incidental to the enjoyment of the dwellinghouse. I also accept that the size of the building proposed by itself, related to the type and size of the dwellinghouse and the curtilage concerned, could be considered acceptable. However, in this case there would also be six other existing buildings, several of which appear, or have been confirmed to have, a storage use. Other than referring to the proposed building to be used as an incidental storage unit, there is no explanation of what would be stored and why an unusually extensive area of storage could be reasonably required in relation to a conventional suburban two-storey detached dwellinghouse.
8. Consequently, as a matter of fact and degree, the case has not been made that the development would be reasonably required for a purpose incidental to the enjoyment of the dwellinghouse as such. I cannot therefore conclude that the proposed development would be permitted by Schedule 2, Part 1, Class E of the GPDO. As such, the Council's refusal to grant a certificate of lawful use or development in respect of development described as "Demolition of existing outbuilding (E) and rebuild" was well-founded.
9. Therefore, the appeal fails and I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Gareth Symons

INSPECTOR