The Planning Inspectorate

Appeal Decision

Site visit made on 7 October 2020

by R Jones BA(Hons)DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2020

Appeal Ref: APP/R5510/D/20/3253284
15 Woodside Road, Northwood HA6 3QE

- 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 Sanjiv Patel against the decision of the London Borough of Hillingdon.
- The application Ref 12444/APP/2020/782, dated 5 March 2020, was refused by notice dated 28 April 2020.
- The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
- The use for which a certificate of lawful use or development is sought is described as 'two detached outbuildings to rear for use as an office and garden shed.'

Decision

1. The appeal is dismissed.

Preliminary Matter

2. For the avoidance of doubt, the planning merits of the existing development are not relevant, and they are not therefore an issue for me to consider in the context of an appeal under section 195 of the Town and Country Planning Act 1990 (the Act), as amended, which relates to an application for a Certificate of Lawful Use or Development (LDC). My decision rests on the facts of the case and on relevant planning law.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant a LDC is well founded.

Reasons

4. Class E of Part 1 of Schedule 2 of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended) (GPDO) sets out permitted development for the erection of an outbuilding within the curtilage of a dwellinghouse. It sets out a number of criteria that the proposed building would have to comply with, relating to matters such as its size, position and whether the dwellinghouse is located in certain designated areas (the 'physical tests'). From the evidence before me and from my site visit, both outbuildings come within 2m of the boundary of the curtilage of the dwellinghouse and are

higher, being set on a raised plinth, than the 2.5m permitted for a building so located. The appellant does not dispute this.

5. Therefore, as a matter of fact and degree, the buildings do not comply with the physical tests or limitations of E.1(e)(ii) of the GPDO.

6. The appellant claims that the appeal buildings have existed for at least four years prior to the date of the application. The relevant test of the evidence is 'on the balance of probability' i.e. that it is more probable than not. If the Council has no evidence of its own, or from others to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided his evidence alone is sufficiently precise and unambiguous.

7. In support of the case, the appellant has made an Affidavit which states that *'the shed was erected between 2001-2003'* and the *'office was erected in 2014 or earlier.'* These statements are not, however, in themselves precise nor qualified with any further evidence and it unclear from the Affidavit whether the appellant owned, or had detailed knowledge of the property, in either 2001-2003 or 2014.

8. A property valuation from 2014 is referred to in the evidence and a summary is provided where the house is described as having a *'summerhouse'* and *'store.'* The appellant has confirmed, however, that the full version of the property valuation (even a redacted version) does not form part of the evidence and it is unclear, either by reference to photographs or a plan, whether the summerhouse and store do indeed correspond to the two outbuildings I saw on site. In my opinion, the building used as an office does not have the appearance of the summerhouse.

9. Screenshots of a video dated 23 August 2014 show images of parts of two garden buildings. Whilst these are identified (on the image) as taken in Northwood, the location is not precise and the image quality, as reproduced, poor. From the evidence before me, I cannot reasonably conclude the images show the outbuildings currently in situ.

10. Taking all of the above in the round, the appellant's evidence is not, as a matter of fact and degree, sufficiently precise and unambiguous to show, on the balance of probability, that the two outbuildings have existed for at least four years by the date the application was submitted. Therefore, I cannot conclude that the existing use is lawful.

11. Consequently, the Council's refusal to grant a certificate of lawful use or development in respect of the two detached outbuildings for use as an office and garden shed is well-founded. The appeal fails and I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

R. Jones

INSPECTOR