
Appeal Decision

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 January 2021

Appeal Ref: APP/B1740/X/19/3233641

The Lodge, behind Old Bells, Silver Street, Hordle SO41 0FN

- 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 Mrs Ann George against the decision of New Forest District Council.
 - The application Ref 18/11421, dated 22 October 2018, was refused by notice dated 22 January 2019.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is the use as a residential dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As the appeal relates to the lawfulness of a proposed use, views were sought from the parties as to whether it would be necessary for me to visit the site. No objections to this course of action were received and I do not consider that injustice to the parties would arise from determining the appeal on the basis of the written evidence before me.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) is well-founded.

Reasons

4. The appellant claims that the appeal building has been occupied as a dwelling for in excess of 4 years. Several letters of support have been submitted confirming that that building was completed in November 2013, at which time Leanne George moved into it.
5. The water bills that have been submitted for various periods over the requisite 4 year period relate to services for "the Field at 05600/602 Adj To The Three Bells". No explanation has been provided as to why The Lodge, or The Stables, is not referred to as the address where water is supplied. Two of the bills cover the period of 31 March 2012 to 30 September 2013 and 31 March 2013 to 30 September 2014, this would precede the construction of the appeal building. I

also note that these bills are addressed to Mr Philip George and Mrs Ann George at Old Bells. Accordingly, I am not satisfied that these bills relate solely to the appeal building.

6. Notwithstanding the dates which the water bills cover, the bill for the period of 2 September 2014 and 1 March 2016, which is addressed to Miss Leanne George, C/O The Stables, indicates what seems to me to be a very low average daily water usage, even for a single occupant. Notwithstanding the use of a washing machine or dishwasher, none of which appear in the photographs submitted, it seems to me that the typical use of a toilet, shower and general water consumption by a single person would far exceed the less than 24 litres indicated as the average daily water use on this water bill. This would suggest that there was perhaps some use of water consuming facilities elsewhere, most likely within Old Bells. In any event, water bills merely indicate that water was consumed. It does not indicate that the building was used as a dwelling.
7. There is also a copy of invoices for the disposal of effluent, which the appellant states relate to the septic tank serving The Lodge as Old Bells is served by mains sewerage drains. I note that the address on the invoices is "The Stables, Old Bells" and they are addressed to Mrs A George. This suggests that there is perhaps some ancillary relationship between the two properties. No explanation has been provided as to why the invoices are not addressed to the occupant of The Stables nor why they are addressed to "The Stables, Old Bells" instead of simply "The Stables".
8. I acknowledge that the building is fitted out with all the necessary facilities required for self-contained living and it may well have been occupied since November 2013. However, based on the limited evidence before me, it is not clear whether the building has been occupied as residential accommodation ancillary to Old Bells or as a self-contained dwelling.
9. 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.
10. Overall, the limited evidence in support of the appeal is not precise and unambiguous. I find therefore that it fails to demonstrate that, on the balance of probabilities, the material change of use of the building to a dwelling has occurred continuously for a four-year period prior to the date of the application.

Conclusion

11. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful development 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.

Alexander Walker

INSPECTOR