



Appeal Decision

Site visit made on 24 September 2020

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2021

Appeal Ref: APP/L3245/X/20/3254145

Old Coach House, Longville, Much Wenlock, Shropshire TF13 6DT

- 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 in part to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Alfred Murray against the decision of Shropshire Council.
 - The application Ref. 18/04504/CPE, dated 28 September 2018, was refused by the Council by notice dated 16 December 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 a C3 dwelling house.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the existing use which is considered to be lawful.

Procedural matters

2. The appeal building is the southern half of a pair of cottages within the grounds of Longville Arms Public House. The appeal building is known as The Old Coach House. The northern half of the pair of buildings is known as Coach House Cottage. This is subject of a separate planning appeal under reference APP/L3245/W/20/3254576 and is dealt with under a separate appeal decision. The site visit for both appeals was conducted on the same day.
3. I was advised that Longville Arms was also subject an appeal and that this was allowed on 16 October 2020 for the change of use of former public house to residential under reference APP/L3245/W/20/3256872. Both parties agree that the appeal has no bearing on this LDC appeal.

Main Issue

4. This is, whether there has been a breach of planning control consisting in the change of use of the appeal building to use as a single dwellinghouse, where no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. Whether the use continued throughout the relevant period without significant interruption.

Reasons

5. There is consensus between the parties that there is no extant planning permission pertaining to the Old Coach House which restricts occupation by way of a planning condition. The case made by the appellant is that Old Coach

House has been occupied for a continuous basis for residential use for at least four years beginning with the date of the breach so that no enforcement action may be taken by the Council and is not in contravention of any requirement of any enforcement notice then in force. The onus is on the appellant to demonstrate the case on the balance of probabilities. The relevant date in relation to the LDC is 28 September 2014, however, the date of the breach could be a time before this date as reflected in Section 171(B)(2).

6. The appellant indicates that the residential use on the application began on 1 March 2012. It is unclear when the appeal building was converted from a barn to residential use. The appellant indicates that the conversion would have taken place sometime prior to 2000 because the southern half of the first-floor appeal building was shown on the existing plan used for residential purposes in connection with planning permission SS/1/00/11060/F which was for the northern cottage building known as Coach House Cottage. This grant of planning permission was for conversion of a barn to 2 no. additional letting bedrooms and games room with no restrictive planning conditions imposed on the permission.
7. However, a similar existing plan showing the residential conversion of the first floor of Old Coach House is shown in connection with planning permission Ref 1/05/17285/F for the conversion of Coach House Cottage in 2005. The Council acknowledge that this permission was carried out. However, in response to the appellant's assertions the Council considers that Old Coach House was converted to letting bedrooms between 1985 and 2000 but maintains that it was not a separate residential unit. Whilst it is suggested that it was used as letting bedrooms there would have been no control over its use and occupation at that time and the residential use could have started around this period. This would mean that the breach of planning control could have continued for the requisite period and become lawful so long as it was not later abandoned.
8. However, the evidence is sparse on this point and cannot be conclusively presumed. The appellant's evidence of residential use for the requisite period is contained by a bundle of statements, rent list and utility bills for the period between 2013 up to the date of the LDC and beyond. By 2013 the appeal building must have contained all the facilities for day to day existence. There is no dispute about this point. It is also from around 2013 that which is claimed by the appellant that the actual use and occupation of the appeal building had begun.
9. Mr J Preece indicates in his statement that he moved into Old Coach House in 2013 and left in May 2018. He said that he used the property for residential purposes, he contributed to the payment of utilities but did not pay rent as he helped Mathew Murray (the appellant's son) to renovate both cottages. Once the major renovation works were completed, he paid £200 per month towards the utilities.
10. Mr Mathew Murray indicates that he lived in Coach House Cottage in 2013 and then moved to Old Coach House (the appeal building) prior to Mr Cashmore residency of Coach House Cottage and stayed at the appeal building until July 2017. In July 2018 he returned to Old Coach House until the present time. Mr M Murray did not pay rent but contributed to the utility bills whilst he worked on the renovation of the properties. Mr Cashmore's statement indicates that he moved into Coach House Cottage on 1 March 2016, which might suggest that

Mr M Murray moved out before then and into Old Coach House around February/March 2016.

11. Mr Alfred Murray statement indicates that Mr Preece occupied the Old Coach House as indicated above and that there was no formal tenancy agreement between the parties. The terms of the tenancy were that Mr Preece was required to decorate and renovate both cottages, but no rent was payable. After the works had been completed Mr Preece paid towards the outgoings and utilities. Mr Alfred Murray's statement corroborates the dates that Mr M Murray occupied Old Coach House and the terms of the tenancy.
12. The appellant has provided a bundle of electricity bills to cover the period from 22 March 2014 to 20 December 2018. These are provided from a period before the relevant date and after the LDC application date. The Council accept that there has been electricity consumption at a reasonable rate but does not accept that the supply relates to Old Coach House or that it provides evidence of residential occupation. The electricity utility bills from Scottish Power refer to Old Coach House. The NPower bills on 1 June 2015 is addressed to the Old Coach House and has printed on it the meter number of the property. The same meter point number is entered on the electric meter at the appeal property thereby corroborating that the NPower bill was for the Old Coach House.
13. It seems likely that in all probability that the Old Coach House was occupied as electricity was used on a consistent basis. The meter point reference is the same on the bill as that on the actual meter in the appeal building which links the electric usage to the appeal property. This evidence corroborates the statements made by the tenants and the appellant. It seems unlikely that the appeal building would have been left empty with the level of electricity usage incurred over the requisite period.
14. The Council is not convinced that the information is sufficient because there is no direct evidence of payment of rent, no tenancy agreement, payment of Council tax, electoral registration records and separate postal addresses.
15. The evidence provided on the decision to list the public house as an Asset of Community Value is of limited weight to the LDC appeal as is the letter from Shropshire Council Grant Claims Co-ordinator because they do not provide direct evidence in relation to the main determining issue. The evidence of deliveries of heating oil are also not directly and solely associated with the appeal property. Whilst tenancy records and proofs of rent payment are direct sources of evidence the appellant's explanation that the appeal building was let out on a more informal basis is plausible and does not undermine or make less than probable the evidence of continuous residential occupation of the appeal building.
16. The Courts have held that the appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted and if the local planning authority have no evidence of their own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to refuse the application, provided the appellant's evidence alone is sufficiently precise and unambiguous to justify the grant of an LDC.
17. The appellant's evidence of residential occupation from 2013 to up to the date of the LDC and beyond is sufficiently precise and unambiguous and

corroborates with the supply of electricity to the property which was continuous throughout the relevant period. Furthermore, the electric utility bills were linked to the property because the name of the property and the meter point reference number unique to the property was also printed on some of these bills.

18. Turning to the issue of continuity of use throughout the relevant period there is a gap of one month when the property may not have been occupied. This is when Mr Preece moved out in May 2018 and when Mr Mathew Murray moved in July 2018. The appeal building would have been available for use but not actually used, although it may not have been obvious to the Council had it inspected the property during this time that there was any break in the continuity of use such that they could not have taken enforcement action. The period of a month between tenants, in my view, is not a significant break or interruption in the continuity of the use.
19. I conclude on the balance of probabilities that there has been a breach of planning control consisting in the change of use of the appeal building to use as a single dwellinghouse, where no enforcement action may be taken after the end of the period of four years beginning with the date of the breach. I conclude on the balance of probabilities that the use continued throughout the relevant period without significant interruption.
20. For the reasons given above I conclude, on the available evidence, that the Council's refusal to grant a certificate 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 as amended.

Iwan Lloyd

INSPECTOR



Lawful Development Certificate

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

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

IT IS HEREBY CERTIFIED that on 28 September 2018 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and hatched in red on the plan attached to this certificate, was lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The breach of planning control consisting in the change of use of the appeal building to use as a single dwellinghouse has taken place more than four years beginning with the date of the breach whereby no enforcement action may then be taken against the use. The use has continued throughout the relevant period without significant interruption.

Signed

Iwan Lloyd

Inspector

Date 09 February 2021

Reference: APP/L3245/X/20/3254145

First Schedule

C3 dwellinghouse

Second Schedule

Old Coach House, Longville, Much Wenlock, Shropshire TF13 6DT

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

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.

This 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 local planning authority.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 09 February 2021

by Iwan Lloyd BA BTP MRTPI

Land at: Old Coach House, Longville, Much Wenlock, Shropshire TF13 6DT

Reference: APP/L3245/X/20/3254145

Scale: Not to scale

