
Appeal Decision

Site visit made on 23 August 2021

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 01 September 2021

Appeal Ref: APP/C2708/X/21/3271387

2 Greenfield Place, Binns Lane, Glusburn, Keighley BD20 8JH

- 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 R Grattan against the decision of Craven District Council.
 - The application Ref 2020/22183/CPL, dated 26 October 2020, was refused by notice dated 5 February 2021.
 - The application was made under section 192(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 use of existing domestic gymnasium for one-to-one personal training/coaching.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of the proposal from the Council's decision notice dated 5 February 2021 because it accurately and succinctly describes the development the subject of the application and this appeal.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue a lawful development certificate was well-founded. In this case that turns on whether the proposed use would comply with condition 4 of planning permission reference 5/32/193 granted on 7 July 1978.

Reasons

4. The appeal relates to an existing residential property which has a gymnasium/fitness studio located in a detached garage which was originally conditionally approved under local planning authority reference 5/32/193 on 7 July 1978. Condition 4 of that permission states that '*The garage hereby approved shall be used for domestic purposes only*'.
5. It is my understanding that the gymnasium/fitness studio is currently used for purposes ancillary to the main dwellinghouse and the appellant wishes to use it for two one hour appointments for one-to-one training sessions; one in the morning and one in the afternoon. The evidence submitted states that the studio would be used for a maximum of ten hours per week for clients' appointments.

6. The Council contends that the proposed use would not comply with condition 4 of the permission granted for the garage and consequently would be unlawful. The appellant argues that the fitness studio will primarily be used for personal and domestic purposes and the coaching is ancillary to the existing use as a domestic facility. The appellant has stated that he, his family and friends will continue to use the gymnasium.
7. I recognise that it is proposed to use the gymnasium for appointments for 10 hours per week, but such use would fall outside the definition of domestic use. I do not agree that such use would be minimal. The building in question would also be used for some domestic purposes such as storage of tools and other domestic paraphernalia. However, condition 4 is explicitly clear that the building shall be used for domestic purposes only and any use other than for domestic purposes would be in breach of the condition. Consequently, irrespective of the level of non-domestic use proposed, the proposed use would fail to comply with condition 4 of planning permission 5/32/193.

Conclusion

8. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the use of the existing domestic gymnasium for one-to-one personal training/coaching 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.

A A Phillips

INSPECTOR