The Planning Inspectorate

Appeal Decision

Site visit made on 8 November 2021

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 6 December 2021

Appeal Ref: APP/J0350/C/21/3279253
Land at 35 Woodland Avenue, Slough SL1 3BX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Satnam Gill against an enforcement notice issued by Slough Borough Council.
- The enforcement notice was issued on 30 June 2021.
- The breach of planning control as alleged in the notice is Without planning permission, the conversion of outbuilding to form a self contained dwelling, in the approximate position edged blue on the attached plan.
- The requirements of the notice are: 1) Cease the use of the outbuilding as a self-contained unit of residential accommodation; 2) Remove the kitchen and bathroom from the outbuilding; 3) Remove the internal walls incorporating the shower room and the kitchen; 4) Remove from the land all materials, rubbish, debris, plant and machinery resulting from compliance with the above requirements.
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(d) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with corrections in the terms set out below in the Formal Decision.

Preliminary Matters

1. The appellant made the appeal solely under ground (d) seeking to demonstrate that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control stated in the notice. However, it appears that the appellant's evidence seeks in fact to demonstrate that the breach stated has not occurred in that the appellant submits that the appeal building has not been used as a separate dwelling, but rather as accommodation ancillary/incidental to the main residential use. I therefore treat this as a 'hidden' ground (b) appeal.

The Notice

2. The notice refers to the breach of planning control as the 'conversion' of an outbuilding to form a self-contained dwelling. It is not clear from the term 'conversion' of itself whether the breach alleged represents a change of use, facilitating works, or both. In view of the requirements of the notice referring to ceasing the use, as well as removal of facilitating works, it is plain that the term 'conversion' in this instance is intended to refer to a change of use along

with facilitating works. I shall therefore correct the notice to refer to both of these. I consider that this can be done without injustice since the intention of the meaning of this term is clear from the face of the notice.

The 'hidden' appeal on ground (b)

3. The appeal on ground (b) is that the breach of planning control alleged in the notice has not occurred. The burden of proof is on the appellant to make their case on the balance of probability.

4. The appellant submits that the outbuilding has been in use only by family members in the household for some twenty years. The outbuilding has apparently been used for family events and gatherings, as well as for the appellant's children to gain independence and also for physical therapy for a member of the appellant's family. The appellant states that he has VHS tapes to evidence the historic usage of the outbuilding. Thus, the appellant claims effectively that historically, the outbuilding has not been used as a self-contained dwelling, but rather that uses have been ancillary/incidental to the residential use of the main dwelling.

5. The Council's evidence though is that a Housing Regulation Officer visiting a neighbouring property observed a couple leaving the outbuilding and enquired whether they lived there, to which the couple replied that they did. The appellant makes no specific response to the Council's submission in this regard and provides no substantive evidence to counter this claim. At my site visit, I saw that the outbuilding was vacant, in the sense of there being no one inside when I visited. Items such as bicycles and a boxing bag appeared to be stored within the building at the time of my visit.

6. However, it was plain that the outbuilding provided all of the facilities required for private day to day domestic existence, including a kitchen and shower room. The appellant has provided no logical explanation as to why a shower room and kitchen would have been required in the outbuilding for the uses stated. It may be that historically the building has not been used as a separate dwelling but that this is a relatively recent development. It may even be that this use has now ceased. However, either way, the appellant has not shown on the balance of probability that the outbuilding was not in use as a self-contained dwelling as at the date of issue of the notice.

7. As such, I find on the evidence before me and as a matter of fact and degree that the breach of planning control as alleged in the notice has occurred. The 'hidden' ground (b) appeal fails.

The appeal on ground (d)

8. The appeal on ground (d) is that as at the date when the notice was issued, no enforcement action could be taken in respect of the breach of planning control alleged.

9. The appellant's evidence, as outlined above, is that the outbuilding has been used for approximately 20 years as ancillary/incidental accommodation in connection with the use of the main house but not as a separate dwelling. The submissions put forward by the appellant do not therefore support an appeal on ground (d) which would need to evidence that the outbuilding *has* been

used as a separate dwelling for four years, such that it is too late for the Council to now take enforcement action.

10. I therefore find on the evidence before me and as a matter of fact and degree that the appeal on ground (d) should fail.

Conclusion

11. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections.

Formal Decision

12. It is directed that the enforcement notice is corrected by:

- In paragraph 3 of the notice, the deletion of the word 'conversion' and substitution of 'change of use'; and

- In paragraph 3 of the notice, the insertion of the words 'and facilitating works' after the wording 'self contained dwelling'.

13. Subject to these corrections, the appeal is dismissed and the enforcement notice is upheld.

V Bond

INSPECTOR