



Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2022

Appeal Ref: APP/R5510/X/21/3274662

18 Wimborne Avenue, HAYES, UB4 0HG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Davinder Rai against the decision of the London Borough of Hillingdon.
 - The application ref 67420/APP/2020/3340, dated 16 October 2020, was refused by notice dated 10 March 2021.
 - 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 'Use of existing building as an independent dwellinghouse'.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Consideration of the evidence is restricted to legal grounds only. Therefore, a site visit was not necessary to determine the appeal.

Reasons

3. I note the appellant's case that the use of the building as an independent dwellinghouse began more than four years ago and, as such, it is asserted is now immune from enforcement action. However, under s191(2) of the 1990 Act, uses are lawful if (a) the time for enforcement action has expired, and (b) they do not constitute a contravention of any requirements of any enforcement notice then in force. On the Council's appeal questionnaire, it is indicated that there was an enforcement notice in force on the date of the LDC application.
4. In bringing this to the attention of the appeal parties the Council supplied a copy of the enforcement notice dated 22 January 2020 which came into effect on 21 February 2020. It alleges a breach of planning control comprising the material change of use of an outbuilding to an independent residential unit. The outbuilding and the use attacked in the notice is the same as the building and the use subject of the LDC application. The enforcement notice requires the residential use of the building to cease and for the associated works to the building to be dismantled and removed.
5. In view of the above, under s191(2)(b) of the 1990 Act, the use applied for cannot be lawful.

Conclusion

6. For the reasons given above I conclude that, on the evidence now available, the Council's refusal to grant a certificate of lawful use or development in respect of the use of an existing building as an independent dwellinghouse 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.

Gareth Symons

INSPECTOR

