



Appeal Decision

Site visit made on 3 May 2023

by Zoë Franks Solicitor

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/M2840/X/22/3294893

16 Croyde Avenue, Corby, Northamptonshire, NN18 8EG

- 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 Mrs Nebahat Ural Molla against the decision of North Northamptonshire Council.
 - The application ref NC/21/00554/CLE, dated 21 December 2021, was refused by notice dated 7 February 2022.
 - 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 as a dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application and appeal forms refer to 16 Croyde Avenue but the issue to be determined in this appeal is whether there are two separate dwellinghouses known as 16 and 16A Croyde Avenue on the appeal site.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant a lawful development certificate for the use of the appeal property as two separate dwellinghouses was well-founded. The appeal is not concerned with the planning merits of the use of the site as two separate dwellinghouses but only regarding whether an LDC should be granted for that use based on the previous use.
4. The appeal site originally had a single, much smaller end-terrace house on it. Due to various extensions this house was significantly increased in size so that it approximately doubled in floor area across the ground and first floors, and a further extension was added to the side with a garage style door in the front elevation. The application form states that the use or activity was begun on 1 December 2017 which would be more than the requisite four years before the application was made on 21 December 2021.
5. At the time of my site visit there was no internal access between the two houses although it is clear from the evidence that there was previously a door on the ground floor which linked them. Both houses have a large, fully equipped kitchen/dining area and shared bathrooms, and have all of the facilities required for private domestic existence. As a matter of fact and degree the appeal site had two separate dwellinghouses on it on the date of the site

visit. However, it is for the appellant to prove on the balance of probability that a substantially uninterrupted use as such had taken place for a period of at least four years prior to the LDC application.

6. The appellant has provided copies of Assured Shorthold Tenancy Agreements which relate to 16A Croyde Avenue as an unfurnished house between the dates of 1 September 2017 to 28 February 2018, 1 March 2018 to 28 February 2019, 17 March 2019 to 16 February 2020, 25 February 2020 to 24 August 2020, 1 September 2020 to 28 February 2021 and 1 March 2021 to 28 February 2022. These dates do cover a four year period prior to the application date, and the small gaps between some of the leases are to be expected and not long enough in themselves to interrupt the period. However, no direct detailed evidence in the form of sworn statements has been provided by the appellant or any of the tenants to corroborate these dates or confirm that 16A was used as a separate dwellinghouse throughout this time.
7. The appellant has provided an EPC which refers to 16A Croyde Avenue and describes it as 'End Terrace'. However, the final building control certificate (dated 8 June 2021), also provided by the appellant states that the 'work does not concern a new dwelling' and describes it as 'Erection of a single storey and first floor extension with associated alterations at 16 Croyde Avenue'. This contradicts the appellant's version of events, as does the quotation to install an additional electricity connection dated 11 October 2018 (i.e. over a year after the date of the first lease and beginning of the alleged separate use).
8. In addition, the Council states that when two officers visited in April 2021 the property and extension were not sub-divided, and that their view is that there was only one large single dwellinghouse. The officer report records that during that visit the property was laid out so that the original part of the house had a kitchen, ground floor shower, two other ground floor rooms and four rooms on the first floor, and the extension had a kitchen, ground floor shower, one other ground floor room and 4 rooms of the first floor with the garage also used as living space.
9. The mere fact of there being a connecting door between the two parts of the building is not enough in itself to preclude the property being used as two separate dwellinghouses, it depends how in fact the building was used (including whether the connecting door was used/locked). However, even taking the appellant's case alone there are contradictions regarding the use of the property and the evidence submitted is not sufficiently precise and unambiguous regarding the actual use of the building as two separate dwellinghouses over the required continuous four year period.

Conclusion

10. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a separate dwellinghouse at 16A Croyde Avenue 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.

Zoë Frank

INSPECTOR