



Appeal Decision

Site visit made on 8 August 2023

by Mr Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2023

Appeal Ref: APP/W4705/X/22/3310183

7 Lees Moor Meadows, Cullingworth, Bingley, Bradford BD13 5GY

- 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 Simon Scholey against the decision of City of Bradford Metropolitan District Council.
 - The application ref 22/03116/CLE, dated 14 July 2022, was refused by notice dated 21 October 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 the use of existing garage to operate a small motorbike detailing business where no changes will be made to the structure of the building or surroundings.
-

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 found to be lawful.

Preliminary Matters

2. In the interests of conciseness, I have used the description of the development in my banner heading as it is set out in the appellant's appeal form as that is more concise than the description set out in the application form.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) is well-founded.

Reasons

4. The onus is on the appellant to demonstrate that, on the balance of probabilities, the use subject of the application is lawful for the purposes of section 191 of the Town and Country Planning Act 1990. A use is lawful under the provisions of section 191(2)(a) of the Act if no enforcement action may be taken because it did not involve development requiring planning permission, or because the time for enforcement action against the use has expired.
5. The appeal property comprises a semi-detached dwelling with two integral single garages. The appellant confirms that one of the garages has been converted into living space. The other garage is used for the use that is the subject of the application.
6. At the time of my site visit, the garage contained a motorcycle lift, tripod lamps, a small pressure washer, a small toolbox, shelving containing cleaning/valeting equipment and products and a wet vacuum. There was also

a motorcycle and motorcycle clothes and helmets, which the appellant confirmed were their own. Given the small size of the garage, if there was a motorcycle on the lift there would be little room for storing an additional motorcycle to the appellant's personal one without significantly restricting access to the one on the lift.

7. The appellant states he valets no more than 3 motorcycles per week, which involves cleaning them with a pressure washer, polishing them and ceramic coating them. The pressure washer is used for approximately 2/3 minutes per motorcycle and is carried out on the driveway. Each motorcycle can take 1/1.5 days to complete.
8. There is no dispute that a motorcycle valeting business operates from the appeal property. However, running a business from home does not necessarily require planning permission. The question is whether the business results in a material change of use of the dwelling. This is a matter of fact and degree.
9. The appellant provides a pick up/drop off service for the motorcycles using their van to collect the motorcycles from customers and then drop them off once valeted. Whilst this would result in additional vehicular movement to and from the appeal property, they would only amount to an additional six movements per week.
10. Whilst the motorcycles are pressure washed on the drive, this is for a very short period of time. They are then dried, which takes approximately 5 minutes. The total time spent pressure washing and drying 3 motorcycles per week would likely be less than one would expect to spend cleaning a single car. I note the pressure washer is only small and is one that would typically be used for domestic use rather than a more powerful commercial washer. Once washed and dried, the motorcycles are then moved back into the garage for polishing and possibly ceramic coating.
11. Given the small number of traffic movements, the lack of customer visits and the limited noise generated through the use of the pressure washer for very limited periods of time, I do not consider that the operation of the business materially changes the character of dwelling. As such, I find it is incidental to the dwelling and does not result in a material change of the use of the property. Therefore, planning permission is not required for the use as no development, as defined in section 55 of the Town and Country Planning Act 1990, has occurred.
12. I note the Council's concern that there is no way to control the number of motorcycles being worked on if the business was to grow. However, the application is for an LDC and the assessment is whether the existing business operation has resulted in a material change of use that requires planning permission. As it currently operates, on the basis of no more than 3 motorcycles per week, I have found the business is incidental to the dwelling and does not amount to a material change of use. Were the business to grow, such as increasing the number of motorcycles valeted, then it is possible that this could result in a material change of use that would require planning permission. However, my determination of the appeal is based on what was occurring at the time the LDC application was made.

Conclusion

13. For the reasons given above, I conclude, on the evidence available, that the Council's refusal to grant a certificate of lawful use or development in respect of the use of garage as a vehicle wash/valeting service 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.
14. To ensure the LDC clearly defines the actual use and operations, I have amended the description of the development to read 'Use of existing garage to operate a small motorbike detailing business involving washing, polishing and ceramic coating a maximum of 3 motorbikes per week.' Nothing in this description departs from what is taking place as set out by the appellant in their evidence. Accordingly, there would be no injustice caused to any interested parties.

Alexander Walker

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 14 July 2022 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged 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 submitted evidence demonstrates that the use of the garage for valeting a maximum of 3 motorcycles per week has not resulted in a material change of use of the dwelling and therefore does not require planning permission.

Signed

Alexander Walker

Inspector

Date: 25 August 2023

Reference: APP/W4705/X/22/3310183

First Schedule

Use of existing garage to operate a small motorbike detailing business involving washing, polishing and ceramic coating a maximum of 3 motorbikes per week.

Second Schedule

7 Lees Moor Meadows, Cullingworth, Bingley, Bradford BD13 5GY

IMPORTANT NOTES – SEE OVER

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 /operations described in the First Schedule taking place on the land specified in the Second Schedule was /were lawful, on the certified date and, thus, was /were 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 /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation 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: 25 August 2023

by Alexander Walker MPlan MRTPI

Land at: 7 Lees Moor Meadows, Cullingworth, Bingley, Bradford BD13 5GY

Reference: APP/W4705/X/22/3310183

Scale: Not to Scale

