



Appeal Decision

Site visit made on 3 October 2023

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date 23 October 2023

Appeal Ref: APP/P1805/X/23/3320569

47 High Meadows, Bromsgrove, Worcestershire B60 3QR

- 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 Surinder Pal of Team AD Limited against the decision of Bromsgrove District Council.
 - The application ref 22/01596/CPE, dated 13 December 2022, was refused by notice dated 13 January 2023.
 - 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 existing garage that's being used as a part of the dwelling.
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Summary of Decision: The appeal is dismissed.

Main Issue

1. The main issue is whether the refusal of the LDC was well-founded.

Reasons

2. Section 191(2) of the Town and Country Planning Act 1990 states that for the purposes of this Act, uses and operations are lawful at any time if (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force. The onus is on the appellant in an LDC case to make out their case to the standard of the balance of probabilities.
3. The PPG advises that 'Precision in the terms of any certificate is vital, so there is no room for doubt about what was lawful at a particular date, as any subsequent change may be assessed against it' and that 'The certificate needs to therefore spell out the characteristics of the matter so as to define it unambiguously and with precision.'¹
4. The grounds for the LDC stated on the application form is that the use as a single dwelling house began more than 4 years before the date of the application and that the garage conversion was permitted development. The certificate is sought for and described as 'existing garage that's being used as part of the dwelling'. The plan showing the land the certificate relates to includes the whole of No 47, the garage and the wider plot and the letter that accompanied the submission refers to the conversion of the garage into a habitable room.

¹ Paragraph: 010 Reference ID: 17c-010-20140306

5. Notwithstanding this, the evidence provided by the appellant, indicates that the garage was not being used as part of No 47 at the time of the LDC being made to the Council. The statutory declaration from Mr Dubb refers to the garage as a self-contained residential building. Moreover, the PCN response refers to the garage being used for short term let and separate accommodation. The description given on the appeal form is that the property comprises of a main dwelling house and an adjacent self-contained studio room, both let separately.
6. This evidence shows that the garage was being used as a separate unit. My observations on site concur with the evidence with there being no connecting door or other link between the former garage area and the dwelling at No 47. The former garage also had facilities to be used separately.
7. Consequently, from the evidence before me, on the balance of probabilities, the existing garage was not part of the dwelling at the time of the certificate being submitted.

Other Matters

8. Whether the use of the garage as a separate unit of accommodation or the external works are lawful is not part of my consideration given the wording of the certificate as applied for. That other garages in the street have been converted to extra ancillary or separate accommodation or uses does not alter my findings for the lawfulness of the use described in this LDC.

Conclusion

9. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the existing garage that's being used as a part of the dwelling 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.

Formal Decision

10. The appeal is dismissed.

Stuart Willis

INSPECTOR