

Appeal Decision

Site visit made on 19 August 2024

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2024

Appeal Ref: APP/M3455/X/23/3323857

73 Victoria Park Road, Tunstall, Stoke on Trent, Staffordshire ST6 6DX

- 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 Aneel Zafar against the decision of Stoke-on-Trent City Council.
 - The application ref 68672, dated 29 November 2022, was refused by notice dated 26 January 2023.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is the installation of new uPVC windows and painting of the frontage.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

3. The purpose of the s195 appeal is to determine whether or not the development proposed in the application made under 192(1)(b) of the Town and Country Planning Act (the Act) would have been lawful if carried out at the date of the application, 29 November 2022.
4. The Planning Practice Guidance states 'In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved¹.'
5. The description of the proposal in the application form is 'The proposed works are the installation of new uPVC windows and painting of the frontage.' However, there are no details regarding the design and colour of the windows or the colour and type of paint to be used. Due to the lack of

¹ Paragraph: 006 Reference ID: 17c-006-20140306

details regarding what is proposed, it is not possible to establish whether or not the proposal would be development in accordance with Section 55(2)(a)(ii) of Act, ie whether it would affect the external appearance of the building.

6. If I found the proposal to be development then Schedule 2, Part 2, Class C of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO) permits the painting of the exterior of any building or work, providing the painting is not for the purpose of advertisement, announcement or direction. Due to the significant lack of evidence before me regarding the proposed works, I cannot be certain the painting of the exterior of the building would not be for the purpose of advertisement, announcement or direction.
7. Schedule 2, Part 1, Class A of the GPDO allows for 'The enlargement, improvement or other alteration of a dwellinghouse'. However, this is subject to a number of conditions and limitations, namely condition A.3(a) which states "the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse". In the absence of any details of the windows proposed it is not possible to ascertain whether they would be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.
8. The appellant acknowledges the lack of detail regarding the proposed works and confirms that they seek a decision 'in principle' on whether the proposal would be lawful. However, in order to allow the appeal, I must be satisfied that the proposal would be lawful. Without knowing the sufficient details of what is proposed, it is not possible to determine if it would be lawful. Therefore, a decision 'in principle' cannot be made.
9. Given the lack of sufficient clarity and precision to enable me to understand exactly what is proposed, I cannot grant a lawful development certificate. Consequently, the argument pertaining to the Article 4(2) Direction is irrelevant as even if I found in favour of the appellant on this matter, it would have no effect on the outcome of the appeal; the appeal would still be dismissed.

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 the installation of new uPVC windows and painting of the frontage is 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.

A Walker

INSPECTOR