

# Appeal Decision

Site visit made on 10 September 2024

**by John Whalley**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 September 2024**

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**APP/B3410/X/24/3340005**

**Dove View, Marlpit Lane, Ellastone, Ashbourne DE6 2GS**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against the decision of East Staffordshire Borough Council to refuse to grant a certificate of lawful use or development.
- The appeal was made by Mr Matt Reeves.
- The application, reference P/2023/00844, registered on 11 August 2023, was refused on 19 December 2023.
- The application was made under section 192(1)(b) of the Act of the Town and Country Planning Act 1990 as amended.
- The development for which a certificate of development is sought is for the erection of a detached garage and workshop to be used for purposes incidental to the enjoyment of the dwellinghouse known as Dove View.

**Summary of Decision: A certificate of lawfulness is not issued.**

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## Appeal proposal

1. The Appellant, Mr Matt Reeves, wishes to build a single storey detached garage and workshop measuring some 5.6m wide, 14m long within the curtilage of his detached home, Dove View, Marlpit Lane, Ellastone.

## Considerations

2. The Town and Country Planning (General Permitted Development) Order 1995 (as amended), (the Order), at Article 3, Schedule 2, Permitted development rights Part 1, Development within the curtilage of a dwellinghouse, at Class E – buildings etc incidental to the enjoyment of a dwellinghouse allows at E. the provision within the curtilage of the dwellinghouse of — (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure;.
3. The Council's reason for refusing to issue a certificate of lawfulness said the proposed garage and workshop would not appear as a reasonable subordinate and ancillary building to the host dwelling within the context of the application site. The proposed development was therefore not considered to represent a development reasonably required for a purpose incidental to the enjoyment of the dwelling house and therefore did not comply with Part 1, Class E of the Order.

4. Dove View is a single storey dwelling with a straight driveway that also leads past the western side of the house to a substantial pitched roof double garage. The Appellant, Mr Matt Reeves, wishes to build an additional garage/workshop along the western side of the existing garage to accommodate and work on the cars he keeps, restores and builds as part of his hobby.
5. In the case of *Emin v SSE & Mid Sussex DC [1989] JPL 909*, it was determined that an outbuilding must be 'required for some incidental purpose' to be permitted development under Class E, but its size is not relevant. It is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwellinghouse, and whether the building is genuinely and reasonably required to accommodate the use and thus achieve that purpose.
6. On the evidence submitted, it is clear that Mr Reeves enthusiasm for working on and looking after several cars is currently limited by the covered and secure space available in the detached double garage in the rear garden of his home. I am concerned, however, in relation to the permitted development test applied by Part 1, Class E of the Order, a garage/workshop extending to a floor area of some 78m<sup>2</sup> in addition to the existing double garage, would fail to be reasonably incidental to the enjoyment of the small dwellinghouse, Dove View. I accept that it is a matter of interpretation as to what may not be agreed to be incidental and what, in this instance, might be considered to be an "excessive" number of cars, particularly in relation to the size of the dwelling and its curtilage. But the new garage/workshop building would be too large in relation to the house and the garden area.

#### **FORMAL DECISION**

7. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawfulness for the detached garage and workshop was well-founded and that the appeal should not succeed. I exercise the powers transferred to me under s.195(2) of the 1990 Act as amended.

*John Whalley*

INSPECTOR