

Appeal Decision

Site visit made on 27 August 2024

by D A Hainsworth LL.B(Hons) FRSA Solicitor
an Inspector appointed by the Secretary of State

Decision date: 24th September 2024

Appeal Ref: APP/N2535/X/23/3334923

Kellaway House, Marton Road, Sturton By Stow, Lincoln LN1 2AH

- The appeal is made by Matthew Trimmer under section 195 of the Town and Country Planning Act 1990 against a refusal by West Lindsey District Council to grant a lawful development certificate.
 - The application Ref: 146684, dated 28 April 2023, was refused by notice dated 4 July 2023.
 - The application was made under section 191(1)(a).
 - The existing use for which the certificate is sought is the use of outbuildings B, C and D for commercial workshops and storage facilities.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use relating to the existing use, which I consider to be lawful at the time of the application.

Reasons for the decision

2. Section 195 requires an assessment to be made as to whether the Council's refusal of the application is or is not well-founded. The assessment is based on the lawfulness of the use at the time of the application. The planning merits of the use are not relevant to the appeal and there is no planning application before me.
 3. Outbuilding C was blown down in a storm shortly before my site visit. I have nevertheless continued to deal with the appeal relating to it, since the required assessment is based on the lawfulness of its use at the time of the application for the certificate in April 2023.
 4. The Council refused the application for the following reason: -

"Insufficient information has been provided to demonstrate that, on the balance of probabilities, the buildings (B, C and D) have been used for a continuous period of more than 10 years before the date of this application, as stated within Section 171B (3) of the Town and Country Planning Act 1990. The certificate is therefore refused."
 5. The Council have asked me to disregard the evidence submitted with the appeal that was not available when the Council made their decision. I have not
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done so, because I have to make an assessment as to whether the Council's refusal of the application is or is not well-founded and additional evidence received from either the appellant or the Council is relevant to that duty. The Council have, however, responded to the additional evidence and I have taken their response into account.

6. The appellant states that the outbuildings B, C and D are utilised by Spalding Fasteners Ltd. as commercial workshops and storage facilities and that they have been in continuous use as such by various businesses for over 10 years. The use appears to have been limited to activities that did not have an adverse impact on the amenity of the area by reason of noise or other emissions. The evidence produced by the appellant consists of: -
 - Companies House filings for Friction Bonding & Lining Limited of Kellaway Workshops (2001), Fallowgate Limited of Kellaway House (2007) and Super Squad Ltd of Kellaway House (2018).
 - Aerial images of the site taken in 2015, 2020 & 2022. These show the existence of a vehicle weighbridge on the site.
 - Statements made by the appellant, as follows. He and his partner bought the property in 2022 with business use in all three of the outbuildings. Businesses have been paying rates for all the outbuildings for nearly 20 years. Friction Bonding & Lining gave Kellaway Workshops as their trading address on all their documents from 2001-2010. Fallowgate (Batri bikes) operated from the workshops from 2007-2017. There are many articles on the internet about bikes being built in the workshops - see links to websites showing the workshops being used for storing and building bikes and to an article in *Lincolnshire World* about bikes being built in the workshops. Super Squad were a textiles business which operated from the site from 2018-2022; they used the weighbridge for weighing vehicles and their loads of textiles.
7. The Council state that the Companies House filings "Kellaway House" do not show that the businesses were operating from the outbuildings. They also state that information from the Revenues Team at the City of Lincoln Council shows that "Kellaway House only came into the NDR (Non-Domestic Rates) on 1 April 2015", but that information too is similarly imprecise. The 2001 filing for Friction Bonding & Lining Limited does, however, indicate that this business was operating from the outbuildings. The Council's case also relies in part on a statement on the application form that the use began on 1 April 2013, which they maintain is inconsistent with other dates provided; however, looking at the completed form as a whole, the appellant's agent appears simply to have picked a date that is 10 years before the date of the application.
8. The most telling part of the Council's statement does in fact support the appellant's case. This is the record they have of a visit to the site in June 2012 in which a reference is made to an electric bike shop. That record is consistent with the appellant's statement that Batri bikes operated from the outbuildings from 2007-2017.
9. I consider that the weight of evidence supports the application and that the appellant has made out the case for the certificate to the standard required, namely the balance of probabilities. I have concluded that the outbuildings B, C

and D have been used as commercial workshops and storage facilities for a continuous period of more than 10 years before the date of the application and that the Council's refusal of the application is therefore not well-founded.

10. The appeal has therefore been allowed and, as required by section 195(2), a certificate of lawful use has been granted.

D.A.Hainsworth

INSPECTOR