



Appeal Decision

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2024

Appeal Ref: APP/Y9507/X/24/3340543

The Old Stable, Lythe Lane, Petersfield, Hampshire GU32 1AT

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) ("the Act") against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr G Graver against the decision of South Downs National Park Authority.
 - The application ref SDNP/23/05363/LDE, dated 20 December 2023, was refused by notice dated 1 March 2024.
 - The application was made under section 191(1)(a) of the Act.
 - The use for which an LDC is sought is use of stable building as a single residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. With the knowledge of the parties, a site visit was not undertaken.

Main Issue

3. The main issue is whether the Authority's decision to refuse to issue an LDC was well founded. This turns on whether enforcement action could have been taken against the change of use of the building to use as a single residential dwelling in breach of planning control on the date the application was made. At that time, section 171B(2) of the Act provided that such action could only be taken within 4 years of the breach occurring.
4. It is therefore necessary to consider:
 - Whether the change of use of the building to use as a single residential dwelling was instituted on or before 20 December 2019 ("the Relevant Date"), 4 years before the date of the application.
 - Whether the use as a single residential dwelling continued thereafter, without significant interruption, for a period of not less than 4 years.
5. If both can be demonstrated, on the balance of probability, the use of the building as a single residential dwelling would be lawful.

Reasons

6. The responsibility for providing sufficient information to support an LDC application or appeal primarily rests with an applicant or appellant. However, if no other evidence contradicts or otherwise makes their version of events less

than probable, and provided their evidence is sufficiently precise and unambiguous, there is no good reason to withhold an LDC.

7. The LDC is sought in respect of a building formerly used as stables within a land holding known as Foxfield Farm.
8. The appellant's evidence includes 3 Statutory Declarations, a letter from a person who rents an adjacent stable and grazing land and a bundle of other documents dated between December 2016 and January 2023.

The Statutory Declarations and letter

9. The appellant declared that he had been living in The Old Stable as his main residence since November 2019. He further declared that the presented evidence was a true account of continuous residential use of the building for over 4 years. The latter point was also made in the Statutory Declaration of David Graver, the appellant's father.
10. In the third Statutory Declaration, Brian Harris declared that he had been aware that the appellant had been living in The Old Stable since November 2019. Mr Harris did not state how he had become aware of this, or when or how often he visited the site. However, his employment as a part-time gardener at Foxfield Farm suggests his visits to The Old Stable may have been infrequent. It was not declared that there had been no significant interruption in the appellant's residential occupation of the building.
11. The letter from the person renting the adjacent stable and grazing land stated that the appellant lived in the Old Stable between November 2019 and December 2023. It did not confirm whether that was without significant interruption.
12. Viewed in isolation, the Statutory Declarations of the appellant and his father are evidence of residential occupation over an uninterrupted 4-year period that should be afforded weight in any decision. However, it must also be determined whether any other evidence contradicts or otherwise makes their version of events less than probable.

The evidence of the Authority and others

13. The Authority places weight on the content of a Planning, Design and Access Statement accompanying a planning application¹ submitted in June 2020. This described The Old Stable as one of two stable blocks on land then in equestrian use. However, the author has confirmed that he did not go to the site at that time, relying on his recollection from visiting before, and had not been advised of any residential use. I do not doubt that explanation.
14. The Parish Council has stated that residents had reported seeing no lights on at the building during dark hours, nor deliveries or visits, and cars going in and out only a handful of times. However, as the Authority indicates, the lack of observed activity by passers-by cannot demonstrate there was no residential use. The absence of visible light could be because windows face away from public view and may also be a result of a planning condition preventing the installation of external lighting at the site.

¹ SDNP/20/02549/FUL

15. For these reasons, the evidence of the Authority and others does not decrease the probability of the appellant's version of events.

The appellant's presented evidence

16. This is within a bundle that, with 2 exceptions, comprises documents from after the Relevant Date, which therefore cannot substantiate the use as being lawful. The 2 exceptions are invoices issued by contractors. It is contended that these show that works to convert the building to enable habitable use were carried out in 2016 and 2017.
17. The first of these invoices, dated 1 December 2016, was addressed to David Graver Lettings Ltd. It was for supplying and fitting a new carpet on new underlay and gripper and new vinyl flooring for the kitchen area and WC at premises described as "the old stable." The invoice did not specify the location in any more detail and, as the Authority points out, it could have related to any former stable building within the letting company's portfolio.
18. There is another reason to question this evidence. An almost identical invoice, with the same number, from the same company to the same customer, for the same work, and for the same amount is included in the bundle. The date on that invoice is exactly 4 years later and, crucially, after the Relevant Date. The only other significant difference between the two is that the later invoice was for work carried out at "the stable", not "the old stable", as before. While the handwritten annotation "The Old Stabe [sic] FOXFIELD" on the later invoice is not explained, it is reasonable to assume it was added by the recipient.
19. This apparent duplication creates significant ambiguity. However, the later invoice has a further handwritten addition, "Pd 2/12/20", indicating that payment was made the next day. In the absence of any explanation for the ambiguity, a 4-year delay in payment, or the same work being carried out or invoiced twice, are too unlikely to be given credence. Accordingly, and on the evidence before me, it is most probable that the floor coverings were laid in late 2020, about a year after the Relevant Date.
20. The second invoice from before the Relevant Date was also addressed to the letting company. It was for works to "Carry out conversion of stable to residential use, as directed" at "Froxfield [sic] Stables, Petersfield" and was dated 21 April 2017. Photographs within the Statement of Evidence submitted with the application indicate that this would have included the formation of partition walls and the installation of plumbing and central heating, electrical power and lighting. While not shown in those photographs, it would also have been necessary to instal drainage from the kitchen and bathroom and, in this rural location, a septic tank.
21. While the sum invoiced, £585.00, was only for labour, it seems unaccountably low for the amount of work that was done. If it did relate to labour for the work necessary to facilitate use as a single residential dwelling it could only realistically be for part of that work. It therefore falls short of demonstrating, on the balance of probability, that it was for work providing all the facilities required for day-to-day private domestic existence. For these reasons, the evidence of the second invoice is imprecise.
22. Nevertheless, and despite that imprecision, the second invoice further undermines the credibility of the first invoice. That is because it is inconsistent

with the claim that laying carpet, normally one of the last actions in preparing for residential use, had been undertaken the previous December.

23. Among the later documents is an invoice issued by a timber and building supplies company to David Graver Building Services Ltd. on 8 March 2021 with the reference "Foxfield Old Stables." The goods supplied were 72m of treated timber, 24m of drainage pipes, and 2 inspection chambers and covers.
24. The amount of timber is consistent with the formation of partition walls like those separating the bedroom, bathroom, utility room and lounge/kitchenette on the submitted floor plan. It is to be expected that the drainage goods would be installed when making a non-residential building capable of use as a dwelling. However, the use or installation of the goods supplied after some 15 months of residential occupation would be unusual. This unexplained anomaly creates significant ambiguity as to whether all enabling works were carried out in 2016 and 2017, as claimed. Rather, it suggests they were not completed before March 2021, casting further doubt on whether use as a single residential dwelling could have begun in November 2019.
25. None of the contractors' or suppliers' invoices can demonstrate existing or subsequent residential occupation of the building, without which the change of use to a single residential dwelling would not have been instituted. The later documents that indicate residential occupation of the building do not span a 4-year period beginning on or before the Relevant Date. The absence of any earlier documents indicating use as a single residential dwelling on or before the Relevant Date has not been explained.
26. The contractors' invoices and the March 2021 delivery invoice raise significant doubt about whether the building was made capable of human habitation on or before the Relevant Date. Accordingly, they make the claim that the change of use of the building to use as a single dwelling was instituted in November 2019 ambiguous. This is compounded by the failure of the presented evidence to substantiate 4 years' residential use without significant interruption. As a result, considered overall and on the balance of probability, the presented evidence is not sufficiently precise and unambiguous for an LDC to be issued. The reliance placed on it in the Statutory Declarations was therefore mistaken.

Conclusion

27. For the reasons given above I conclude that the Authority's refusal to grant an LDC in respect of the use of stable building as a single residential 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 Act.

Mark Harbottle

INSPECTOR