



Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 15 January 2025

Appeal Ref: APP/J0350/X/24/3346141

148 Windsor Road, Slough SL1 2JB

- 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 VenuGopal Andem against the decision of Slough Borough Council.
 - The application Ref: P/19748/001, dated 23 April 2024, was refused by notice dated 7 June 2024.
 - 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 the existing use of the outbuilding as a self-contained dwelling.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs made by the Council against the appellant is the subject of a separate decision.

Preliminary Matters

3. Despite how the use/building works applied for are described on the application form, the description of the use I have used in the banner heading above is the most appropriate. It resulted from the Council seeking clarification from the appellant about what was being applied for and how the Council then went on to consider the application. The description also matches how the appellant has presented their case at appeal.
4. The outcome of the appeal turns on considering relevant aspects of planning legislation and not on assessing matters of planning merit that would normally require a visual site inspection of the premises. I have therefore been able to determine the appeal without a site visit. Neither side has been prejudiced by this course of action.

Main Issue

5. The main issue is whether the Council's decision was well founded.

Reasons

6. Under s191(1)(a), if any person wishes to ascertain whether any existing use of buildings or other land is lawful, they may make an application for the purpose to the local planning authority specifying the land and describing the use, operation or other matter. Under s191(2) of the 1990 Act, uses and operations are lawful 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 or breach of condition notice then in force. I make the point here that for development to be lawful, both parts (a) and (b) of s191(2) need to be met.

7. In this case, on 22 April 2022 the Council served an enforcement notice related to the appeal property alleging a breach of planning control comprising “the material change of use of a single family dwelling house to 2 separate flats and the change of use of an outbuilding to form a self-contained dwelling and facilitating works”. The notice came into effect on 23 May 2022. The outbuilding referred to in the notice is the same one as that in this appeal.
8. In view of s191(2) of the 1990 Act, and notwithstanding the appellant’s case that the use of the outbuilding as a self-contained dwelling started in 2017 and that four years of use had elapsed before the enforcement notice came into effect, the use applied for cannot be lawful.

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 use of the outbuilding as a self-contained 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).

Gareth Symons

INSPECTOR