



Appeal Decision

Accompanied site visit made on 22 April 2025

by Nick Fagan BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2025

Appeal Ref: APP/D1265/X/24/3353644

The Annex, 186 Ham Lane, Hampreston, Wimborne, Dorset BH21 7LT

- 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 & Mrs Maurice & Sarah La Clef against the decision of Dorset Council.
 - The application ref P/CLE/2023/04723, dated 15 August 2023, was refused by notice dated 12 February 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 use of a building as a single dwelling house.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue, as usual in LDC appeals, is whether the Council's refusal is well-founded, having regard to whether the outbuilding, the Annex, formerly a domestic garage located next to and just to the rear of the house, has been continuously occupied as a self-contained dwelling house for a period of at least 4 years prior to the submission of the application.

Reasons

3. The burden of proof in such appeals falls on the appellants. They must establish, on the balance of probabilities, that the outbuilding has been continuously used for a 4-year period following its conversion from a domestic garage, which I understand from the appellant's submitted documents was completed in August 2017, albeit I notice from some historic photographs dated October 2017 that the conversion works appeared at that time to be ongoing. This 4-year period can be any period since the completed conversion; it does not have to be a 4-year period immediately preceding the submission of the application.
4. Planning Practice Guidance on LDCs reflects caselaw. It sets out that appellants' own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellants' version of events less than probable, there is no good reason to dismiss the appeal provided the evidence alone is sufficiently precise and unambiguous (my emphasis).
5. There is no dispute here that the Annex, since its completion, possesses all the facilities of a self-contained dwelling house: it has a bathroom with toilet and shower, a small kitchen, cupboards, a chest of drawers and a double bed. The

appellants put forward two periods of alleged 4-year continuous occupation of the outbuilding by various tenants, as set out in paragraph 4 of Mrs Le Clef's Statutory Declaration dated 29 September 2023 and in Statements (of rental income) by Churchfields (the letting agents), who took on management responsibilities for the Annex from January 2021 onwards.

6. The first starts in March 2018, when Connie Bragg's occupation of the Annex allegedly commenced. This would require evidence of continuous occupation terminating in March 2022, a period of 4 years. However, I have not seen in the appellants' submitted documents any tenancy agreement or evidence of any rental payments by Connie Bragg. Whilst the Council does not challenge this, that appears to be because it was assessing the 4-year period prior to the submission of the application, rather than the period commencing in March 2018. It does highlight a one-month gap in October 2018 between Connie Bragg's alleged occupation and Emmie White's, which started on 1 November 2018 as evidenced by the signed tenancy agreement dated 29 October 2018.
7. This means that there needs to be an evidenced 4-year continuous period of occupation of the Annex ending on 31 October 2022. But I have not seen such evidence in the appellants' submitted documents. I have seen from the submitted Churchfield Statements that: Anne Warne paid rent from 1 February to 31 August 2021, Tommy Hughes from 5 September 2021 to 4 March 2022, and Oliver Crabb from 26 March to 25 July 2022. The Council points out that there is a 4-day gap between 31 August and 4 September 2021, and a 21-day gap between 5 and 21 March 2022, which it argues is a break in continuous occupation. I disagree. Those gaps are simply gaps between one tenant leaving and another arriving, which is part and parcel of residential renting and hence not a break in the continuous residential use of the Annex as a dwelling house.
8. However, I have seen no Churchfield rental Statements after 25 July 2022, so I am unclear whether the Annex was occupied between 26 July 2022 and 15 August 2023, when the application was submitted. This includes the period between 26 July and 31 October 2022, a period of over 3 months. So, there is no evidence of continuous occupation between 1 November 2018 and 31 October 2022.
9. The second 4-year continuous period of occupation of the Annex argued by the appellants is 15 August 2019 to 15 August 2023, the date the application was submitted. However, and as the Council points out in its appeal letter of 27 February 2025, there remains the gap between 26 July 2022 and 15 August 2023, a period of over a year, when no evidence has been submitted by the appellants of residential occupation. Hence, I cannot conclude on the balance of probabilities that the 4-year period immediately preceding the date of the application has been established for the residential use of the Annex as a dwelling house.
10. It may be that the appellants possess the necessary documentation to demonstrate that there has in fact been a 4-year continuous period of residential occupation of the Annex since it was completed and first let out up until now, in which case they can re-apply for a LDC. But, for the above reasons, they have not provided the necessary documentation in this application or appeal to establish that there has been any such 4-year period from completion of the garage's conversion to 15 August 2023, the date when the application the subject of this appeal was submitted to the Council.

Conclusion

11. Consequently, for the above reasons, I conclude that the Council's refusal was well-founded, and the appeal is therefore dismissed.

Nick Fagan

INSPECTOR