



Appeal Decision

Site visit made on 6 January 2026

by Timothy C King BA(Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2026

Appeal Ref: APP/U1430/X/24/3341931

4 Sunnybank, The Mount, Flimwell, Wadhurst, TN5 7QR

- 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 Ms Victoria Reynolds against the decision of Rother District Council.
 - The application ref RR/2023/2245/O, dated 27 October 2023, was refused by notice dated 22 December 2023.
 - The application was made under section 192(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 a ground floor room within the dwelling as a salon.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. In an appeal under s195, against the refusal of a LDC, the burden of proof is upon the appellant to confirm his/her case. Its planning merits do not fall to be considered as the decision will be based on evidential fact and planning legislation.

Main Issue

3. The main issue is whether the Council's decision to refuse the LDC was well founded.

Reasons

4. The appellant says that the salon, to be created in a ground-floor to the rear of the dwelling, would be for carrying out micropigmentation, involving cosmetic tattooing. She describes the work as 'part-time' with a maximum of two to four clients seen in total throughout the working week, and between the hours of 9am to 5pm.
5. She also indicates that the maximum length of an appointment would be three hours. On this basis she is of the view that the use would be no more than incidental and, as the primary use of the property would remain as a residential dwelling, there would be no significant planning implications.
6. The Council for its part, in considering the application made, concluded that the said use would constitute a material change of use for which the benefit of planning permission would be required.
7. The use of any building or land within the curtilage of a dwellinghouse for any purpose incidental to its enjoyment shall not in itself be taken to involve

development requiring planning permission. A material change in the use of the land, instead would require a definable change in the character and use of the dwelling, and this would be a matter of fact and degree.

8. As regards the proposed use I am mindful that the expected duration and frequency of appointments could change, with the time taken to attend to a client dependent upon the specific service they require. In the absence of any planning conditions to regulate this – conditions cannot be imposed on a LDC – the Council would have no control over the use.
9. For clients visiting the premises it is not clear whether the clients expected would be local and might arrive on foot. If arriving by car or vehicle they might wish to afford themselves the use of an unadopted private road which runs to the rear of a number of dwellings set back from the front highway, but this only reasonably for the purposes of the immediate local residents.
10. I am not persuaded on the evidence adduced that a material change of use would not occur. The provision of a dedicated room, which would likely be laid out, along with necessary equipment installed for the particular commercial requirements, and which would be used by members of the public, is not of a nature or scale that can reasonably be described as incidental to the enjoyment of the dwellinghouse. The appellant says that, when not in use for clients, it would be used as a study or hobby room, but there is no guarantee of such.
11. The scope for expansion of the intended use, as the nature and type of cosmetic treatment could easily evolve without any form of planning control, is considerable, and the regular comings and goings of clients could easily change the character of the dwelling. In the event of such a material change in planning terms would have occurred, yet no planning conditions would exist to regulate the use.

Conclusion

12. For the above reasons I conclude that the Council's refusal to grant a LDC for the proposed use was well-founded and that the appeal should fail. I will therefore exercise the powers transferred to me in s195(3) of the 1990 Act, as amended.

Timothy C King

INSPECTOR