The Planning Inspectorate

Appeal Decision

Site visit made on 12 February 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 23 February 2026

Appeal ref: APP/C3430/X/24/3357473
Land rear of Harrow Cottage, School Lane, Coven, Wolverhampton WV9 5AN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended, (the Act), by the Planning and Compensation Act 1991 against a refusal by South Staffordshire District Council to grant a certificate of lawful use or development.
- The appeal was made by Ms Victoria Williams.
- The application, dated 21 August 2024, Council ref: 24/00759/LUE, was refused by a notice dated 5 December 2024.
- The Application for a Certificate of Existing Lawful Development sought confirmation that planning permission 18/00374/FUL had been lawfully implemented and can be further enlarged when complete through permitted development rights on land to the rear of Harrow Cottage, School Lane, Coven, Wolverhampton WV9 5AN.

Summary of decision: The appeal is dismissed.

Appeal site and planning application 18/00374/FUL

1. The appeal concerns an area of land, rear of the dwellings Standeford Cottage and Harrow Cottage, School Lane, Coven. The appeal application seeks confirmation of the status of a planning application for building 2 single storey houses.

2. The planning application was for the demolition of an existing disused workshop, residential replacement development of 1 bungalow dwelling plus infill development of 1 bungalow dwelling and associated works on land, part of the rear garden to the dwelling Harrow Cottage, School Lane, Coven. The proposed ‘U’ plan bungalows would each measure approximately 14m deep, 7m wide. Both would have a large 'L' shaped room that included a kitchen, dining and living areas and home office. They would have 2 bedrooms and a bathroom.

3. The planning application became the subject of a procedural error. The application, numbered 18/00374/FUL, had been recommended by Council officers for refusal. But the decision, dated 11 July 2018, was set out on an incorrect template, the issued decision being headed: “Grant of Planning Permission”. Following legal advice, the Council confirmed that, in fact, planning permission was granted by that decision issued on 11 July 2018.

4. The current appeal certificate of lawfulness application, dated 21 August 2024, Council ref: 24/00759/LUE, sought confirmation that the planning permission had been implemented before 11 July 2021, 3 years from the date of issue.

Lawful development certificate application

5. The Appellant, Ms Victoria Williams, requested that whilst the Council had recognised that application 18/00374/FUL had been issued as a grant of planning permission, it would be helpful to have that confirmed in writing as part of this appeal decision. The decision should categorically state, in a standalone statement, that planning

permission in respect of application 18/00374/FUL had been granted by South Staffordshire District Council.

6. That specific request is not a matter for me. This appeal is proceeding under s.195 of the Act. Such appeals are made to the Secretary of State, most being handled by the Planning Inspectorate, an executive agency of the Department for Levelling Up, Housing and Communities (DLUHC). It is not part of my involvement in the appeal to question the Agency's acceptance of the status of the planning permission. My task is, and is limited to, deciding whether planning permission 18/00374/FUL had been lawfully implemented by 11 July 2021.

7. The certificate application also sought confirmation that the 2 dwellings could be further enlarged when complete by the exercise of permitted development rights. A completed dwelling would benefit from permitted development rights as set out in The Town and Country Planning (General Permitted Development) (England) Order 2015, (the Order), in Article 3 Schedule 2 Part 1, development within the curtilage of a dwellinghouse, unless subject to any relevant exception, limitation or condition specified in Schedule 2.

Considerations

8. The issue of the planning permission in this irregular form meant that the attached "planning conditions" as set out in the document were shown as reasons for refusal. Because of that, no time limiting condition was attached. But, in accordance with s.91(3) of the Act, where planning permission is granted without indicating the time limit condition required by subsection (1), the permission shall be deemed to have been granted subject to the condition that the development to which it relates must be begun not later than 3 years from the date of issue. In the case of this full planning application, that meant a period of 3 years starting with the date of the grant of permission 11 July 2018. Therefore, the Appellant needed to show, on the balance of probabilities, that the planning permission had been implemented by 11 July 2021.

9. The Council said drawings NCS03, NCS04, NCS05, NCS06, NCS07 and NCS08 submitted with the original planning application were to be considered the approved plans.

10. The Appellant Ms Williams said the Council had acknowledged that some works on the application site took place in June 2021. Those works included the demolition of a small shed at the side of the large shed close to the southern boundary of the appeal land, works to the side of the proposed access roadway and construction of a retaining wall. The works were said to have been to facilitate sub-division of the site and to include removal of an earth mound that had obstructed the access road. In Ms William's view, those works, even if the Council saw them as having been of a minor nature, had implemented the 18/00374/FUL planning permission by 11 July 2021. Ms Williams referred to the case of *Malvern Hills DC vs SSE & Barnes and Co* [1982] JPL 439 where the Court of Appeal found that the marking out of a line and the setting out of the width of a road with pegs had been what was then defined as a specific operation, (now a 'material operation' according to the Act).

11. In my view, the pre-July 2021 works were not caried out sufficiently precisely in accordance with the plans deemed to have been the approved plans, (drawings NCS03, NCS04, NCS05, NCS06, NCS07, NCS08). In *Malvern Hills*, the developer had accurately marked out the line and width of the first 250 feet of road for an estate of 25 houses. He used pegs which were 2.5 feet long by about 2 inches square and driven into the ground. There was no evidence that such well-defined and apposite lines were set out in the present case, either in respect of the roadway or more

significantly, to show the position of the bases or the walls of the proposed 2 dwellings. Indeed, no setting out lines or markings were shown to have been provided on site before July 2021.

12. The works that were carried out should have been obviously pertinent to the 18/00374/FUL planning permission. No such evidence was provided. Works such as the demolition of the small shed and the building of the retaining wall were minor works not necessarily related to planning permission 18/00374/FUL. At the time of those works, they could not have been identified as having been specific to that permission.

Conclusion

13. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development on the application made seeking confirmation that planning permission 18/00374/FUL had been lawfully implemented was well founded and that the appeal should not succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

FORMAL DECISION

14. The appeal is dismissed.

John Whalley

INSPECTOR