



Appeal Decision

Site visit made on 8 June 2026

by John Whalley

an Inspector appointed by the Secretary of State

Decision date:

Appeal ref: APP/W4325/X/25/3368330

20 Neale Drive, Greasby, Wirral, Merseyside CH49 1SL

- 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 Wirral Metropolitan Borough Council to grant a certificate of lawful use or development.
 - The appeal was made by Mrs Jeanette Shaw.
 - The application dated 7 October 2024, Council ref: 24/00881/LUP, was refused by a notice dated 22 November 2024.
 - The Application for a Certificate of Lawful Development was for: Proposed use of a room in the house for holistic health therapies at 20 Neale Drive, Greasby, Wirral, Merseyside CH49 1SL.
 - **Summary of decision: The appeal fails. A Certificate of Lawfulness is not issued.**
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Appeal property

1. The appeal property, No. 20 Neale Drive, Greasby, is a 2 storey semi-detached house with No. 22 in an attractive residential road of similar properties

Application

2. The Appellant Mrs Jeanette Shaw sought a certificate of lawfulness, (LDC), for use of a room in the house at No. 20 for providing holistic health therapies.

Considerations

3. Section 192(1) of the Act provides for the making of an application to ascertain whether, (a) any proposed use of buildings or other land would be lawful. In an LDC appeal, as with pursuing an appeal against the issue of an enforcement notice on legal grounds, the onus is on the appellant to make out their case to the standard of the balance of probabilities. Issues of planning merit are not relevant and there is no deemed planning application.
4. I noted that Mrs Shaw had doubts about which procedure to adopt in her pursuit of regularising a holistic health therapy activity in her home at No. 20. I share some doubt that seeking an LDC was the most appropriate route. Since an LDC cannot be subject to conditions, an application must relate to a specific use, operation or breach of condition. It is not open to an applicant to pose a general enquiry as to what is or might be lawful. In terms of assessing the level of the non-residential use, the wording of this application has an element of making such an enquiry.
5. If the health therapy activity use of one room in the house is to be on such a small scale as to be of no consequence in terms of the effect on the residential use of the house and of the engendered activity in the immediate area, no material change of use would have occurred. The use at that level could continue as there would have been no change of the residential use of the house. The health therapy activity could then be regarded as a use incidental to the residential use of the house. However, should the health therapy

activity at No. 20 be such as to materially change the character of the residential use of No. 20 and its immediate surroundings because of an undue increase in noise and the comings and goings of patients, a material change of use from the residential use to a mixed use of residential and holistic health therapy purposes would have occurred. In that instance, the new mixed use would not be lawful. The mixed use would require planning permission to continue operation. I cannot issue an LDC for what would be an unlawful mixed use of No. 20.

Conclusion

6. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development on the application made 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.

John Whalley

INSPECTOR