

Ward: Kentwood

Appeal No: APP/E0345/X/21/3270720

Planning Ref: 191318/CLE

Site: The Kiln, 16a Romany Lane, Tilehurst, Reading, RG30 6AP

Proposal: Existing use as a self contained studio (C3 use)

Decision level: Appeal

Method: Written representations

Decision: Appeal dismissed

Date Determined: 13th August 2021

Inspector: Paul T Hocking

1 BACKGROUND

1.1 The case concerns a self-contained outbuilding with the address of '16A Romany Lane', within the rear curtilage of 16 Romany Lane. The surrounding area is residential mainly comprised of semi-detached dwellings. On the location plan appended to the report the outbuilding is depicted in yellow while the other properties owned by the appellant are shown edged in blue.

1.2 A Certificate of Lawfulness for existing use of the outbuilding as a self-contained dwelling was applied for in August 2019. In order for the certificate to be granted, evidence had to be provided to demonstrate that the outbuilding had been in continuous use as a self-contained studio dwelling for a period of 4 years. If granted, the use would then have been immune to enforcement action by the Local Planning Authority.

1.3 The application was refused in November 2020 due to a lack of precise and unambiguous evidence being provided to demonstrate the continuous operation of the use over the relevant 4 year time period.

1.4 The reason for refusal was:

The applicant has provided contradictory and insufficient evidence or other information that does not demonstrate to the Local Planning Authority that the use of the self-contained studio (C3 use) has been ongoing for continuously for at least four years. It follows that there is no justification to grant the certificate of lawfulness applied for by the applicant.

2 SUMMARY OF DECISION

2.1 The appeal was dismissed with the Inspector concluding that, whilst the Council did not have their own evidence to directly contradict the appellant's case, the evidence provided by the appellant was not sufficiently precise or unambiguous to convince the Inspector of the continuity of the use.

2.2 The appellant's primary form of evidence to support their case were three sworn statutory declarations provided by a tenant of the outbuilding, the applicant and a letting agent. Officers highlighted the inconsistencies in the floor plans provided as part of the sworn documents when compared to the real-life configuration of the site witnessed as part of a site visit. The Inspector agreed with the Local Planning Authority that the inconsistencies between the two were not immaterial in the decision (as the appellant suggested), as it demonstrated inconsistency and a lack of precision within the submission. Furthermore, the Inspector noted that the three sworn statutory declarations were not precise in their content, such as by providing clear dates as to when the tenant resided in the building. Lastly, the Inspector independently commented on the fact the three statutory declarations were sworn and dated at the same time which could have led to 'very close and convenient corroboration' (quote from the Inspector).

3 Head of Planning, Development & Regulatory Services Comment

3.1 Both planning and legal Officers welcome the appeal decision which gives a greater understanding of the weight Inspectors place on different forms of evidence, and the level of scrutiny required by the Local Planning Authority when considering CLE applications. It also highlighted the importance of carrying out site visits for this application type. Planning, Legal and Enforcement Officers are now discussing the future of the unauthorised development.

Case Officer: Connie Davis

Location Plan

