



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 23/11/20

gan **Janine Townsley, LLB (Hons)**
Cyfreithiwr (Nad yw'n ymarfer)

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 18th January 2021

Appeal Decision

Site visit made on 23/11/20

by **Janine Townsley, LLB (Hons) Solicitor**
(Non-practising)

an Inspector appointed by the Welsh Ministers

Date: 18th January 2021

Appeal Ref: APP/X6910/X/20/3259528

Site address: 51 Coronation Street, Blaina, Blaenau Gwent, NP13 3HS.

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Miss Julie Smith against the decision of Blaenau Gwent County Borough Council.
 - The application Ref: C/2020/0024 dated 24 January 2020, was refused by notice dated 16 March 2020.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is a shelter in back yard of 51 Coronation Street.
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Decision

1. The appeal is dismissed.

Main Issue

2. This is whether the evidence given by the appellant demonstrates, on the balance of probability, that the works described in the application were substantially completed on the relevant date.

Reasons

3. An appeal relating to a Certificate of Lawful Use or Development (LDC) is confined to reviewing the local planning authority's reason for refusal and then deciding whether or not the reasons are well founded. In relation to the construction of this shelter the question to be asked is whether the appellant has shown, on the balance of probabilities, that the shelter which was present at the date of the application had been substantially completed 4 years before the date of the application. The application was made on 24 January 2020 and so, in this case, the relevant period commenced on 24 January 2016 and this is referred to as the "relevant date".
 4. In any LDC application, an applicant is required to provide evidence that is sufficiently precise and unambiguous to justify the grant of a certificate 'on the balance of probability'. The burden of proof is on the applicant and a local planning authority
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must be supplied with sufficient information to satisfy them that the proposed development is lawful.

5. The appeal relates to a structure which has been erected in the rear garden area comprising a covered shelter. The appellant states she has lived at the property since 2007 and she has had structures in the garden since 2007 but they have changed over a period of time.
6. I observed that the shelter has been constructed of mixed materials, some of which appeared to have been recycled. The nature of the construction is such that it is difficult to reach any visual estimation of its age and the structure has the appearance of one which may have evolved over time. This is consistent with the appellant's evidence.
7. Comments have been received from the occupiers of the adjacent dwelling that the current shelter differs from that which was present when they moved into the property in 2018. Whilst this calls into question whether the shelter could have been described as substantially completed at that time, the evidence referred to comprising property marketing photographs which appear to show a roof alteration are not dated and do not show in any clear detail the construction of the appeal shelter.
8. The appellant has referred to a letter which has been produced by her housing officer to confirm the shelter has been present for over four years, however the author of the letter states they have only recently seen the shelter. Furthermore, there is nothing in the evidence to indicate that the shelter was in a substantially completed form on relevant date.
9. Overall, the evidence which has been presented lacks sufficient detail to discharge the evidential burden. There has been contradictory evidence submitted by the Council, but this too lacks detail and clarity. The evidence is therefore limited to an assertion from the appellant that the shelter was in place for four years prior to the relevant date and a challenge to this from interested parties. I have attributed little weight to all corroborating evidence due to lack of detail. Furthermore, the appellant has not addressed or evidenced whether the shelter was substantially completed at the date of the application and for the four years prior to that.
10. For these reasons I conclude that the appellant has failed to demonstrate on the balance of probability that the shelter has been substantially completed in excess of four years from the relevant date.

Conclusion

11. For aforementioned reasons, and taking account of all matters raised, I conclude that the Council's decision to refuse to grant a certificate of lawful use or development was well-founded. Accordingly, the appeal is dismissed, and I shall not issue a certificate.

Janine Townsley

Inspector