

2024/0320

Mr Simon Roddis

Crag Cottage, Finkle Street Lane, Wortley, Barnsley, S35 7DH

Certificate of lawfulness for dwellinghouse garage with first floor ancillary accommodation to form a residential annex to the host dwelling

Site Description

The site is a large, detached dwelling located in Wortley. Crag Cottage is access from a private road off Finkle Street Lane. The dwelling has a former detached garage now converted annex to the side (northwest) which is the subject of this application.

Planning History

B/87/1295/WO - Erection of porch

2009/0838 - Erection of a two-storey side extension and conservatory extension to dwelling (Approved with Conditions)

Proposed Development

The application for a lawful development certificate has been submitted for the development of the detached garage and annex in respect of Town and Country Planning regulations. The assessment below will distinguish whether a certificate can be issued for this development.

Assessment

In 2013 a building regulations application was submitted for the erection of a detached garage (13/05725/BR) at the dwelling and approved on 31/01/13. Satellite Imagery from 2017 (as pictured below) clearly indicate that the detached garage with dormer window additions (not included on the plans) to incorporate the annex has been installed for a significant period of time.



2401 - Crag Cottage, Finkle Street, Wortley, S35 7DH
Aerial Photography dated 17/06/2017

Additionally, the applicant has provided evidence of internal furnishings relating to the annex that are also dated from 2017 and 2018. It is therefore evidenced that the annex installation to the garage was carried out more than four years ago. The applicant has confirmed that the annex is to support the host dwelling and is not a separate standalone dwelling.

S171B of the TCPA 1990 establishes two timescales relevant to this application.

- within 4 years of substantial completion for a breach of planning control consisting of operational development where substantial completion took place before 25 April 2024
- within 10 years for any other breach of planning control (essentially other changes of use)

The development of the garage and annex is clearly in excess of the four-year rule for operational development as set out in S171B of the TCPA 1990. The LPA have no record of complaints having been made about the development and there does not appear to have been a deliberate concealment of a breach of planning control in this instance. Given the above information, the development (ie the construction of the garage/workshop and annexe) is considered to be exempt from planning enforcement and can be classified as an existing lawful development.

Furthermore, it is noted the description references only the building works for the development which both exceed four years therefore this certificate can be issued.

However, this certificate does not include the change of use of the annex to a residential use, and for that the applicant would be required to demonstrate its use for at least 10 years. The evidence provided shows that the fitting out for accommodation occurred during 2017/18 and therefore 10 years use cannot be demonstrated. The use as a residential annexe therefore remains open to enforcement action should the Council consider it expedient to do so. An informative will be added to the certificate setting out that the certificate of lawfulness is limited to the construction of the building only and not its use which remains unauthorised and advice how to regularise the use

Recommendation

Certificate Granted