BARNSLEY
Metropolitan Borough Council

Place Directorate
Regeneration and Culture
Planning and Building Control

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 192 (as amended)
Town and Country Planning General Permitted Development Order 2015 (as amended)
Town and Country Planning (Development Management Procedure) (England) Order 2015: article 39

APPLICATION NO. 2023/0565

To Mr Cyril Barnett
4 Burton Crescent
Monk Bretton
Barnsley
S71 2QD

DESCRIPTION Erection of a detached outbuilding to the rear of dwelling (Application for a Lawful Development Certificate for a Proposed Development)

LOCATION 4 Burton Crescent, Monk Bretton, Barnsley, S71 2QD

Barnsley Metropolitan Borough Council certifies that the proposed development of the above land for the Erection of a detached outbuilding to the rear of dwelling (Application for a Lawful Development Certificate for a Proposed Development) is **not lawful.**

The reasons for the Council's decision to refuse the application for a certificate of lawfulness are:

1. The evidence submitted does not demonstrate that the proposed outbuilding complies with the limitations of Class E of Part 1 of Schedule 2 of the Town and County Planning (General Permitted Development) Order 2015 (as amended). The evidence contradicts previous supporting information regarding the pre-existing ground level, including that established within the previous applications and appeals and that used in support of an approved Lawful Development Certificate. Furthermore, the land in question has been so altered during the excavation and construction works carried out to facilitate the proposed development since the beginning of the construction period which means that the proposal fails the burden of proof test as the necessary evidence has not been proven and cannot be verified. Overall, there is nothing that amounts to new evidence that is sufficiently precise and unambiguous to justify applying a higher surface ground level adjacent to the building than what was established by appeal APP/R4408/X/20/3255825. As such, the evidence is not clear and unambiguous and does not satisfy the burden of proof test.

2. The Local Planning Authority considers that the proposed building would be within 2m metres of the boundaries of the curtilage of the dwellinghouse and on the balance of probability would be more than 2.5m in height when assessed in relation to the pre-existing highest ground level that existed

immediately adjacent to the building. Neither the garden wall nor the parts of the concrete base that are positioned outside of the outer wall of the building that have been constructed constitute part of the building for the purpose of measuring the surface of the ground immediately adjacent to the building. They do not represent the natural level of the original land, but are new additions designed to subvert the rules in the Class E and are the same details as was in situ at the appeal site visit made by Planning Inspector Pleasant when dismissing the appeal against application 2021/0220 (PINS ref APP/R4408/X/21/3276280). The proposed development is not thus permitted development.

Signed  Dated 02 August 2023
Joe Jenkinson
Head of Planning and Building Control

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse the lawful development certificate application then you can appeal to the Secretary of State under section 195 of the Town and Country Planning Act 1990.

For appeals under section 195 of the Town and Country Planning Act 1990 the applicant cannot submit an appeal before the following time-limits:

- If the appeal is against the LPA's decision, 28 days from the date on the decision notice;
- If the appeal is against the LPA's failure to determine the application, 28 days from the date by which the LPA should've made their decision

Once these time limits have passed, there is no time limit within which an appeal must be made. However, the Planning Inspectorate would expect to receive an appeal within 6 months (para 2.4.2 of the Certificate of lawful use or development appeals: procedural guide updated 26/07/2023).

Appeals can be made online at: https://acp.planninginspectorate.gov.uk/

If you are unable to access the online appeal form ask the Planning Inspectorate for an appeal form to appeal by post or email. The form will tell you where to send the completed form and required documents to:-

The Planning Inspectorate
Room 3 O/P
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN
Planning Inspectorate customer support team
enquiries@planninginspectorate.gov.uk
Telephone: 0303 444 5000

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.