

DELEGATED DECISION REPORT

SMD/2023/0643
Valid 02/01/2024

CLEWLOW BANK HOUSE
HILL TOP
BROWN EDGE

APPLICATION FOR A LAWFUL
DEVELOPMENT CERTIFICATE
FOR AN EXISTING TWO
STOREY REAR EXTENSION

(CERTIFICATE OF
LAWFULNESS - EXISTING)

MAIN ISSUES

Was the development, already carried out, lawful on the date of the application? Specifically, with relation to that question, was the Council out of time to take action against the development or had it been substantially complete less than 4 years prior.

DESCRIPTION OF SITE

Double fronted rendered cottage with a steep gabled roof in a rural location. A pre 1948 two storey outrigger at the rear has been enlarged and altered to increase its width and projection and add a full pitched gable roof. This work was carried out with planning permission SMD/2017/0132.

The subject of this application is a rendered two storey addition adjacent to the development referred to above, the addition extends 3m from the rear elevation and has a hipped roof running into and adjoining with the roof of the original dwelling. There is a separation gap of less than a metre between both side by side projections.

PROPOSAL

In 2021 the applicant had sought a certificate of existing lawfulness for the development carried out based on a claim that it had been carried out as development permitted by Class A, Part 1 of the GPDO 2015. The claim was rejected and the application refused. It was agreed by both parties that, at that time, the development had not been substantially complete for 4 years or more (the applicant had submitted Building Reg completion certificates for the development - started under initial notice dated 27th Nov 2018 and completion certificate dated 3rd June 2019).

With this application, a certificate of lawfulness is sought on the basis that now, with the passage of time, the Council is out of time to take action against the development because it was substantially completed 4 years or more prior to the date of the application (s171B of the Act 'Time Limits').

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2015/0322 Two storey rear extension. Refused.

SMD/2017/0132 Rear Extension. Approved.

SMD/2017/0692 Addition to rear extension COLP. Unlawful/Refused

SMD/2018/0113 Rear/side extension COLP. Unlawful/Refused

SMD/2018/0623 New access to garden room. Refused.

SMD/2018/0625 Garden Room COLP. Unlawful/Refused

SMD/2021/0180 LDC 2 Storey Rear Extension. Refused

CONSULTATIONS

Publicity

Site Notice expiry date: 09/02/2024

Neighbour consultation period ends: 09/02/2024

Press Advert: N/A

Public Comments

None

Town / Parish Comments

Awaited

OFFICER COMMENTS

Section 171B of the Act sets out the time limits for planning authorities to take action against unauthorised development. Operational development that has been substantially complete for 4 years or more would be immune and an authority would be out of time to take action. When enforcement action cannot be taken against unauthorised development then for the purposes of the Act it is considered to be lawful and a certificate should be granted.

In this case Building Regs documentation and dated Google Street View photographs provide irrefutable evidence that the development has now been substantially complete for 4 years or more.

The Council is out of time to take action against the development and it is now lawful for the purposes of the Act.

CONCLUSION / PLANNING BALANCE

The Council is out of time to take action against the development because it has been substantially complete for 4 years or more (s171B of the Act). For the purposes of the Act, the development is lawful in these circumstances. Building Reg documentation and dated Street View photographs provide irrefutable evidence that substantiates the claim.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst

Recommendation Date: 27th February 2024

X 

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council

