

DELEGATED DECISION REPORT

SMD/2024/0370
Valid 12/08/2024

17 MARSHALL AVENUE
BROWN EDGE

**APPLICATION FOR A LAWFUL
DEVELOPMENT CERTIFICATE
FOR AN EXISTING GROUND
FLOOR, SINGLE 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 prevented from taking action because the development was permitted by the GPDO.

DESCRIPTION OF SITE

A semi detached brick dwelling at the end of a cul de sac in an established residential suburb in the larger village of Brown Edge.

PROPOSAL

The application makes the claim that a single storey brick addition to the rear of the semi-detached dwellinghouse is lawful. The addition is built from matching brick, has a flat roof with a height of 2.5m, and extends from the rear wall by 2.7m.

The applicant makes the case that the development would on the date of the application have been permitted by the terms of Class A, Part 1, Sched 2 of the GPDO 2015.

It is also stated that the development was built more than 20 years ago.

The house is for sale and a certificate is sought to satisfy prospective purchasers.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

None

CONSULTATIONS

Publicity

Site Notice expiry date: 25/09/2024

Neighbour consultation period ends: 25/09/2024

Press Advert: N/A

Public Comments

None

Town / Parish Comments

Brown Edge PC: Awaited/No response

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 dated aerial photographs provide irrefutable evidence that the development has, as the applicant states, now been substantially complete for well over 4 years. The Council is out of time to take action against the development and it is now lawful for the purposes of the Act.

The applicant otherwise makes the case that the development would have been permitted by the Class A, Part 1, Sched 2 of the GPDO. It is no higher than 2.5m, extends less than 3m from rear wall, more than 50% of curtilage remains, and does not extend from side wall or principal elevation. There is no dispute in these regards and the claim is accepted.

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). It is also clear that on the date of the application the development would have been permitted by Class A, Part 1, Sched 2 of the GPDO 2015.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst

Recommendation Date: 05/10/2024

X *J Curley*

Signed by: Jane Curley

On behalf of Staffordshire Moorlands District Council