CASE OFFICER'S REPORT

Application Reference:	PL/2023/09329
Application Type:	Lawful development: Proposed use
Site Inspection:	
Consultation ends:	30 October 2023
Case officer:	Stefan Galyas

Site Address:	Binall, Greenway, Tockenham, Swindon, SN4 7PW
Proposal:	Certificate of Lawful Development for the proposed use of an outbuilding for ancillary residential accommodation
Recommendation:	Refuse

Site Description

Binall is a remote detached dwellinghouse, situated on the outskirts of Tockenham. The site is not located within any designated settlement boundary and is considered to be positioned within the open countryside for planning purposes. The building is not listed nor subject to an article 4 direction. There is a Public Right of Way (PROW) ref TOCK8 located to the west of the site. Planning history indicates that permitted development rights are intact.

Policies

Policies are not applicable, this is an application for a lawful development certificate under The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Assessment

The proposal involves the conversion of an existing detached workshop into ancillary residential accommodation. The proposed outbuilding would remain as part of the same planning unit as the main dwellinghouse and would undergo some external alterations.

Section 55 of the Town and Country Planning Act 1990 sets out a definition of what constitutes development.

Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) allows for the provision of incidental buildings within the curtilage of an existing dwellinghouse.

The proposal would convert the existing workshop into ancillary accommodation with the provision of a bedroom, kitchen, dining room, bathroom and lounge.

Planning History

PL/2023/04510 - Change of use from workshop to one bed flat. Withdrawn 07/08/23.

Summary

The proposal claims a lawful development certificate on the basis that the proposed use and works do not amount to development as defined in Section 55 of the Town and Country Planning Act 1990.

Consultation Responses

No consultations undertaken/ comments received due to the nature of the application.

Conclusion

The submitted supporting Statement notes that the Certificate of Lawfulness is made on the basis that the proposed works do not amount to development as defined within Section 55 of the Town and Country Planning Act 1990. The applicant then substantiates this point through case law. The Uttlesford DC v The Secretary of State for the Environment and R J White (1991) case is referenced which established that planning permission is not required when the living accommodation is used in connection with the main dwelling, due to there being no material change of use. The proposal would include a bedroom, bathroom, dining and lounge area.

The level of accommodation provided in this instance has no dependence on the main house and therefore cannot be considered ancillary. It includes a kitchen area, dining area, living area, bedroom and bathroom, everything that is needed as primary living accommodation within a standard dwelling. It is considered that there would be no dependence to the host dwelling and that the quantum of accommodation would enable the building to function without a dependence on the main house. A distance of around 7.5m between the two buildings would remain and it is considered that there would be no need for the occupiers to utilise any facilities within the main dwelling. Ancillary use requires the occupant to use facilities in the main house for some day-to-day needs. However, if the occupant occupies the accommodation entirely independently the use is likely to become an independent main use of the land as a separate dwellinghouse. It would not be ancillary to the enjoyment of the main dwellinghouse. Accordingly, the proposed use of the outbuilding would constitute a material change of use for which planning permission would be required and a new planning unit would be established. Whilst the use would be within Use Class C3(a) this would be separate and distinct from the Use Class C3(a) use of the main house.

In relation to the proposed external works Section 55(2) of the Town and Country Planning Act, it states that development constitutes proposals which would materially affect the external appearance of the building. In this case, a number of external alterations are proposed. The wide boarded door on the south-west elevation would be removed and replaced with a door and canopy above. Additionally, there would be a new fenestration arrangement throughout. It is considered that these alterations would materially alter the external appearance of the outbuilding, thus amounting to ‘development’ under Section 55(2).

It is considered that the proposal would contain all the facilities necessary for day-to-day living and would not remain ancillary to the principal dwelling on site. Additionally, the external works to the building is considered to amount to development, as defined under Section 55(2), as they would materially impact the appearance of the outbuilding.

Recommendation

The proposed works amount to development as defined within Section 55 of the Town and Country Planning Act 1990. It is recommended that the certificate of lawfulness be REFUSED as the works are considered development and do not constitute permitted development therefore an application for planning permission would be required.

Refusal Reason(s): (1)

1 The proposed works amount to development as defined within Section 55 of the Town and Country Planning Act 1990. It is recommended that the certificate of lawfulness be REFUSED as the works are considered development and do not constitute permitted development therefore an application for planning permission would be required.

Informatives: (1)

2 This decision relates to the following plans/ documents:
Cover Letter Planning Statement, 23/17/01A, 23/17/02 and 23/17/03a. All received 30/10/23.