

Regeneration and Economic Development Department

APPLICATION NO: 21/00220/CLD

APPLICANT: Brian Taylor

WARD AFFECTED: Whiston & Cronton

DEVELOPMENT: CERTIFICATE OF LAWFULNESS FOR AN EXISTING TWO STOREY SIDE EXTENSION

LOCATION OF SITE: 49 Pinnington Road, Whiston, Knowsley, L35 3TY,

KNOWSLEY LOCAL PLAN ALLOCATION –

Coal Consultation Zone - Coal - Low Risk - Standing Advice Area

Primary Residential Development - Primary Residential Development

Water Restricted Surface Area - Prescot/Whiston Area

RELEVANT POLICIES

N/A.

TECHNICAL CONSULTATIONS:

N/A.

NEIGHBOUR NOTIFICATION:

N/A.

ISSUES AND ASSESSMENT:

PROPOSAL

The application is for the issuing of a Certificate of Lawfulness for an existing two storey side extension and its use as part of a residential dwelling (Use Class C3) at 49 Pinnington Road in Whiston.

RELEVANT PLANNING HISTORY

None.

POLICY CONSIDERATIONS

Town and Country Planning Act 1990

Section 191 of the Town and Country Planning Act 1990 (as amended by section 10 of the Planning and Compensation Act 1991) makes provision for applications to be made to the LPA to establish the lawfulness of an existing development or use.

This certificate has been submitted under Section 191 of The Town and Country Planning Act to determine whether an existing two storey side extension and its use as part of a dwellinghouse (Use Class C3), is lawful.

S.191 (2) states that uses and operations are lawful at any time if no enforcement action may be taken in respect of them. S.171B (1) sets out the time limits for where no enforcement action may be taken and confirms that in the case of a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, then no enforcement action may be taken after the end of the period of four years. In this instance, it needs

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to be established whether the use has endured continuously for a period of more than four years from the date that the application was submitted to the LPA.

S.191 (4) states that if the LPA are provided with information satisfying them of the lawfulness at the time of the application of the use then they shall issue a certificate to that effect. Planning Practice Guidance also confirms that the applicant is responsible for providing sufficient information to support an application and, in the case of applications for existing use, if a LPA has no evidence itself, nor any from others, to contradict or make the applicants version of events less than probable there is no good reason to refuse the application, provided that the evidence alone is sufficiently precise and unambiguous to grant on the balance of probability.

APPRAISAL

Assessment of evidence

The supporting information submitted as part of this Certificate of Lawfulness application includes:

- Location plan
- Existing and proposed floor plans and elevations/building regulations information
- Site photos
- Photo evidence of a signed invoice for the completion of building works (dated 15/09/2003)
- Signed declarations from two neighbouring properties

It is claimed by the applicant that the two storey side extension was erected in 2013 without planning permission. The 'existing' plans show the original property prior to the erection of the side extension whilst the 'proposed' plans show the property as it currently exists with the extension in situ. The site photos submitted are recent photos taken of 49 Pinnington Road and also show the extension in situ.

A photo of a signed invoice has been submitted in support of this application which is for the completion of building works for a 'double storey extension' from 'CA Hunt Builders & Shop Fitters'. The address of the application site is written on the invoice and it is dated to 15/09/2003. However, when viewing No. 49 on Google Street View, which provides imagery of the property from 2009, the side extension is not present. It has since come to light that the year written on the invoice was an error and should have been 2013. Consequently, it was necessary to seek further evidence to support the application. We have subsequently received declarations from residents from two nearby neighbouring properties who claim that the extension has been in situ since 2013 and 2014.

Given the supporting evidence, it is considered that based on the balance of probabilities, the existing two storey side extension has been in situ and in continuous use as a single dwelling house for a period of more than 4 years. The information provided is not considered to be ambiguous and the LPA has no evidence which contradicts the version of events presented. Subsequently, the extension is immune from any further enforcement action according to section 171B of the Town and Country Planning Act 1990 and consequently, the existing use is considered to be lawful.

CONCLUSION

In conclusion, having regard to the information outlined above and the lack of any evidence contradicting this, there is considered to be sufficient evidence to demonstrate on the balance of probability that the existing two storey side extension to 49 Pinnington Road has been in situ and used as part of a single dwelling for a period of more than 4 years and is therefore lawful. As such, it is recommended that a Certificate of Lawfulness is granted in relation to the application site.

RECOMMENDATION:

That a Certificate of Lawfulness is granted in relation to 49 Pinnington Road for the existing two storey side extension and its use as a single dwelling (Use Class C3).

- 1) In conclusion, it is considered that a Certificate of Lawfulness should be granted in relation to 49 Pinnington Road for the existing two storey side extension and its use

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as a single dwelling (Use Class C3) as on the balance of probabilities it has been in place for more than 4 years.

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
18/02/2021	-	-	LOCATION PLAN

Informatives

Chloe Roberts

20 April 2021

Alan Kilroe
1 June 2021

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