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| **Report to be read in conjunction with the Decision Notice.** |
| **Signed:** | **Officer:** | **KH** | **Date:** | **26/01/2024** | **Manager:** | **LH** | **Date:** | **22/3/24** |
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| **Application Ref:** | 3/2023/0219 |  |
| **Date Inspected:** | 23/01/24 | **Site Notice:** | n/a |
| **Officer:** | KH |
| **DELEGATED ITEM FILE REPORT:**  | **REFUSAL** |
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| **Development Description:** | Certificate of Lawfulness for retention of pedestrian access to Talbot Street via stone shed at the front of the property. |
| **Site Address/Location:** | **1 Talbot Street Chipping PR3 2QE** |
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| **CONSULTATIONS:**  | **Parish/Town Council** |
| Chipping Parish Council considers that removal of the small coal shed door has been harmful to the appearance of this sensitive part of the conservation zone. It is a very prominent location, directly ahead for traffic approaching the Talbot Street junction with Windy Street. The coal shed is in a stone wall that is continuous with the Grade II listed wall and stone steps at the front of St. Bartholomew’s Church. If planning permission has been requested for the removal of the coal shed door and replacement with the bland full size door which has been used the Parish Council would have objected to the application.The Parish Council is however mindful of application 3/2023/0929 for the proposed installation of platform lift behind the external coal store to the front; to improve access for the occupants of 1 Talbot St who have declining mobility. In order for this work to be done the provision of a full height at the front of the coal shed onto Talbot Street appears to be necessary.The Parish Council would therefore support the retention of pedestrian access to Talbot Street provided that the door is remade with timber and painted black to match nearby secondary doors as detailed in the heritage statement that accompanies the application or to a design specified by the Planning Officer which is appropriate for the surroundings.  |
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| **CONSULTATIONS:**  | **Highways/Water Authority/Other Bodies** |
| N/A. |
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| **CONSULTATIONS:**  | **Additional Representations.** |
| Not applicable.  |
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| **RELEVANT POLICIES AND SITE PLANNING HISTORY:** |
| Section 191 of the Town and Country Planning Act 1990.Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 |
| **Relevant Planning History:****3/2023/0929** – Proposed installation of platform lift behind the external coal store to the front; new boundary fence to side of rear garden with angled solar panels – Pending.3/1990/0879 – Proposed outbuildings – Approved. |
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| **ASSESSMENT OF PROPOSED DEVELOPMENT:** |
| **Site Description and Surrounding Area:**The application relates to No.1 Talbot Street which is located on the north side of Talbot Street to the rear of No. 3 and adjacent to the Grade II\* Listed St Bartholomews Church which lies to the west and the Grade II Listed Talbot Barn/Hotel both sited to the East. The application site is located within the settlement of Chipping, within Chipping Conservation Area and the Forest of Bowland National Landscape (formerly AONB). The churchyard wall and steps at St Bartholomew are also Grade II Listed. This wall is attached to the stone built shed and therefore this can be considered to be listed by virtue of being attached to the stone wall of the Church.  |
| **Proposed Development for which consent is sought:**The application seeks to establish the lawfulness of a pedestrian door inserted into the stone shed at the front of the property.Section 191 of the TCPA gives provisions to a person to establish whether an existing use of buildings or land, any operational development or any activity in breach of a planning condition is lawful. For the purposes of this Act uses and operations are lawful at any time if no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason). |
| **Observations/Consideration of Matters Raised/Conclusion:**In terms of the planning history this is limited to some outbuildings in 1990. The applicant has submitted supporting information which states that the shed was originally a public toilet with the hatch originally a doorway which was altered at a later date. In the supporting documents the applicant states that he moved into the property in 2012 and the coal lorry damage the stone jambs in 2016. Dates for changing the hatch to a door are unknown as it was carried out by the applicant with the help of a neighbour who was a builder and was completed around Autumn 2017/Spring 2018.The original purpose was for the delivery of coal and is now intended as a safe disabled access as there is insufficient room for a wheelchair ramp. A separate application has been submitted for the installation of the wheelchair lift which is proposed to be sited to the rear of the shed utilising the door as access.No supporting evidence such as receipts or engineer’s reports have been submitted.A planning/heritage statement has been submitted for which the author is unknown. It acknowledges that the property is within the Chipping Conservation Area and is noted as a building of townscape merit. It states that the existing building is a small, stone built outbuilding that has little or no historical or architectural merit apart from its location close to listed buildings. I would not necessarily agree with that statement as the building does have some character mainly due to its age and location and also possible origins as a public building.Moreover, the building is attached to the Grade II Listed church wall which adjoins it to the west corner and continues along the western boundary up to the dwellinghouse and then continues to the rear to enclose the church grounds. The wall is an important and distinctive feature in the village and due to its prominence and by virtue of being attached this extends to the stone shed.The church dates back to the 16th Century, with some earlier remains, and was restored in 1872 and was listed as Grade II\* in 1967. The churchyard wall and steps were listed Grade II in 1983. The age of the wall is unknown and runs for approximately 500m from the northwest tower, Church Raike and Talbot Street to enclose the church.Taking account all of the evidence provided and the above, it is considered that the works undertaken amount to operational development requiring planning permission and insufficient evidence has been submitted to conclude that a period of four years has past and that the works are therefore exempt from any enforcement action. Furthermore, it is considered that the works carried out require listed building consent and there is no time restriction for which listed building enforcement action must be taken by.As such, taking into account the submitted supporting information and in the absence of any other evidence to suggest otherwise, it is considered that the works are not considered lawful by virtue of part (4) of Section 191 of the Town and Country Planning Act 1990. |
| **Other Matters:**The applicant has raised the issue of disability discrimination due to the personal circumstances of an individual who resides at the property. The Council has had regard to the Equality Act 2010, but also to the appropriate legal tests in determining lawful development certificates as set out principally in sections 191-193 of the Town and Country Planning Act. In this case consideration of the Equalities Act 2010 would not result in a different outcome for the determination of this Certificate of Lawfulness. |
| **RECOMMENDATION**: | That the Certificate of Lawfulness be refused for the following reasons. |
| 1. It is considered that the proposed works require listed building consent, in which case Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 allows the serving of an enforcement notice at any time i.e. there is no time restriction. As the time period for the serving a listed building enforcement notice has not expired then the Council is unable to issue a certificate in accordance with Section 171B of the Town and Country Planning Act.
2. It is considered that the proposed works amount to operational development requiring planning permission and insufficient evidence has been submitted to conclude that a period of four years has passed since the operational development took place. As it cannot be confirmed that the time period for serving an enforcement action has expired then the Council is unable to issue a certificate in accordance with Section 171B of the Town and Country Planning Act.
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