
Appeal Decision

Site visit made on 21 February 2017

by Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 February 2017

Appeal Ref: APP/R0660/X/16/3156170

Lea Forge Trout Farm, Wybunbury, Nantwich, CW5 7LF

- The appeal is made under Section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the 1990 Act") against a failure to give notice within the prescribed period of a decision on an application for a Certificate of Lawful Use or Development ("LDC").
 - The appeal is made by Mr & Mrs Roy Wiggins ("the Appellants") against Cheshire East Council ("the Council").
 - The application (Ref. 16/1433N) is dated 22 March 2016.
 - The application was made under Section 192(1)(b) of the 1990 Act.
 - The development for which a LDC is sought is a single-storey pitched roof side extension.
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Decision

1. The appeal is allowed and attached to this decision is a LDC describing the proposed operation which is considered to be lawful.

Application for costs

2. An application for costs was made by the Appellants against the Council. This application will be the subject of a separate Decision.

Procedural Matters

3. It was confirmed at the site visit that the address for the appeal site is that set out in the heading above.

Reasons

4. I will refer in my Appeal Decision to the single-storey pitched roof side extension, the subject of this appeal, as "the Extension".
5. The Appellants are of the view that the Extension would be lawful because the operations proposed would be permitted development as set out in Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the Order").
6. The Council have not provided any justification as to why the Appellants' contentions are not correct.
7. I have had regard to the Order and I agree with the Appellants that their assessment is correct.
8. For the reasons given above I conclude, on the evidence now available, that the Council's deemed refusal to grant a LDC in respect of the Extension was not

well-founded and that the appeal should succeed. I will exercise the powers transferred to me under Section 195(2) of the 1990 Act and I shall grant a LDC.

Tim Belcher

Inspector

Lawful Development Certificate ("LDC")

SECTION 192 of the TOWN AND COUNTRY PLANNING ACT 1990 ("the 1990 Act");
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 22 March 2016 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this LDC, would have been lawful within the meaning of Section 191 of the 1990 Act, for the following reason:

The operations referred to in the Second Schedule below would have been lawful on 22 March 2016 because:

- a) No enforcement action could be taken in respect of those operations.
- b) Those operations would have been permitted by virtue of the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- c) Those operations do not constitute a contravention of any of the requirements of any Enforcement Notice then in force.

Signed: *Tim Belcher*
Inspector

Date: 28 February 2017

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First Schedule

The erection of an extension in accordance with Drawing Numbers:

- 14.058 – 1.02 Rev A – Site Location Plan – Scheme E
- 14.058 – 1.06 – Block Plan – Scheme E
- 14.058 – 2.01 – Existing Plans – Scheme E
- 14.058 – 2.02 – Proposed Plans – Scheme E
- 14.058 – 3.01 – Existing Elevations – Scheme E
- 14.058 – 3.02 – Proposed Elevations – Scheme D

Second Schedule

Lea Forge Trout Farm, Wybunbury, Nantwich, CW5 7LF

NOTES

This LDC is issued solely for the purpose of Section 192 of the 1990 Act.

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, were not liable to enforcement action, under Part 7 of the 1990 Act, on that date.

This LDC applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operations which are materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action.

The effect of the LDC is subject to the provisions in Section 192(4) of the 1990 Act which states that the lawfulness of specified operations are only conclusively presumed where there has been no material change, before the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

This is the plan referred to in the LDC dated: 28 February 2017

by **Tim Belcher FCII, LLB (Hons), Solicitor (Non-Practising)**

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Do Not Scale

