



Appeal Decision

by Elizabeth Jones BSc (Hons) MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2020

Appeal Ref: APP/M1520/X/20/3244097

86 Stansfield Road, Thundersley, Benfleet SS7 4NB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Nuran Siddique against the decision of Castle Point Borough Council.
 - The application Ref 19/0532/CLP, dated 26 June 2019, was refused by notice dated 31 October 2019.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is conversion of garage to habitable room and creation of front porch.
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Decision

1. The appeal is dismissed in respect of the creation of a front porch.
2. The appeal is allowed in respect of the conversion of a garage to a habitable room and attached to this decision is a certificate of lawful use or development describing the proposed operation which is considered to be lawful.

Procedural Matter

3. Following review of the case it appeared that the appeal could be determined without a site visit without causing prejudice to any party. This is because the case turns on legal points and the parties have submitted sufficient documentary evidence to understand the nature of the site. Both the appellant and the Council were contacted, and it was agreed that as the appointed Inspector I could proceed on that basis.

Reasons

4. The appeal relates to a semi-detached house with an integral garage. The appellant proposes to convert the garage and hall into a lounge, replacing the garage door with a window, and to build a front porch.
5. The use of a garage as living space is not a material change of use which requires planning permission. Moreover, the replacement of the existing garage door with a window complies with all the limitations of Part 1, Schedule 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). I therefore find that the conversion of the garage to a habitable room would be lawful.

6. The principle point at issue is the Council's determination that as a result of the works the porch would not comply with Class D.1(b) of Part 1 of Schedule 2 of the GPDO.
7. Class D of the GPDO specifically addresses the erection or construction of a porch outside any external door of a dwellinghouse subject to a number of conditions and limitations. Paragraph D.1(b) states that development is not permitted by Class D if – (b) the ground area (measured externally) of the structure would exceed 3 square metres.
8. The side elevation of the hall area includes the existing front door and a small window. Both of these would be retained. The submitted plans show that the porch would project up to the small window, and the appellant has confirmed that this is the intended design.
9. The plans indicate that the distance between the existing front elevation of the lounge and the small window, and thus the proposed depth of the porch, is 2m. The plan is drawn to scale and the Council has also measured from it that the porch would have a width of 2.4m. Its footprint would therefore be 4.8m², which would exceed the size permitted by paragraph D.1(b) of Class D.
10. The appellant submits that the measurements provided with the LDC application are in error. The appellant claims, with reference to an annotated photograph, that the distance between the existing front elevation and the small window is only 1.5m. Moreover, the porch would be 1.9m wide, such that its ground area would only be 2.85m². This may in fact be true, but the appellant has submitted a scaled drawing which says something different.
11. The onus is on the appellant to make their case precisely and unambiguously. The appellant's evidence is inconsistent and does not show precisely or unambiguously that the porch would be permitted by Class D.

Conclusions

12. For the above reasons, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the creation of a front porch was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.
13. For the above reasons, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a conversion of a garage to a habitable room was not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act as amended.

Elizabeth Jones

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 26 June 2019 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The conversion of a garage to a habitable room would not in itself require planning permission (and the proposed works to facilitate the use would be permitted development falling within Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and Class A of Part 1 of Schedule 2).

Signed

Elizabeth Jones

Inspector

Date 02 July 2020

Reference: **APP/M1520/X/20/3244097**

First Schedule

Conversion of a garage to a habitable room

Second Schedule

Land at 86 Stansfield Road, Thundersley, Benfleet SS7 4NB

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use/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 section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use/operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/operations which is 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 by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

This is the plan referred to in my decision dated: 02 July 2020

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Scale: not to scale

