
Appeal Decision

Site visit made on 27 July 2020

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Decision date: 13 August 2020

Appeal Ref: APP/R0660/X/20/3251111

21 Rees Crescent, Holmes Chapel, Cheshire CW4 7NL

- 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 Alan Bethell against the decision of Cheshire East Council.
 - The application Ref 20/0136C, dated 13 January 2020, was refused by notice dated 13 March 2020.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which an LDC is sought is conversion of loft space to accommodation, replacement of brick chimney stack with a black steel twin walled flue.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed operations which are considered to be lawful.

Reasons

2. Class B of Part 1 of Schedule 2 of The Town and Country (General Permitted Development) Order 2015 (the GPDO) states that the enlargement of a dwellinghouse consisting of an addition or alteration to its roof is permitted development unless, amongst other things, it would consist of or include the installation, alteration or replacement of a chimney, flue or soil and vent pipe. Other limitations of Class B are not relevant. Class G of Part 1 of Schedule 2 of the GPDO states that the installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse is permitted development. The limitations of Class G are not relevant.
3. The application was made on the basis that the proposed loft conversion is Class B permitted development and that the proposed replacement of the chimney stack with a twin walled flue is Class G permitted development. The Council refused the composite application because of the aforementioned limitation of Class B. However, in post decision correspondence with the Appellant's Agent they have accepted that "...positive certificates could be issued..." for separate applications. They have, in this regard, referred to the replacement flue as "...secondary works...". It would, in fact, be a distinct building operation in its own right and can be assessed on its own, as it should be given the application as it was made.
4. The application was for two distinct building operations. The proposed replacement flue, in this regard, is not a part of or included in the proposed works to convert the loft space. The proposed loft conversion is Class B permitted

development and the replacement flue is Class G permitted development. This has been accepted by the Council and an LDC for both elements of the proposed operations can therefore be granted.

5. For the reasons given above, and on the evidence now available, the Council's refusal to grant an LDC in respect of the conversion of loft space to accommodation, replacement of brick chimney stack with a black steel twin walled flue at 21 Rees Crescent, Holmes Chapel, Cheshire was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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 13 January 2020 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed loft conversion is development permitted by Class B of Part 1 of Schedule 2 of the GPDO and the replacement flue is development permitted by Class G of Part 1 of Schedule 2 of the GPDO.

Signed

John Braithwaite

Inspector

Date: 13 August 2020

Reference: APP/R0660/X/20/3251111

First Schedule

Conversion of loft space to accommodation and replacement of brick chimney stack with a black steel twin walled flue.

Second Schedule

Land at 21 Rees Crescent, Holmes Chapel, Cheshire CW4 7NL

NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule were 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 operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation 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.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 13 August 2020

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Land at 21 Rees Crescent, Holmes Chapel, Cheshire CW4 7NL

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Scale: not to scale

