
Appeal Decision

Site visit made on 22 February 2021

by R Satheesan BSc PGCert MSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 March 2021

Appeal Ref: APP/Q3820/X/20/3260823

20 Beechside, Southgate, Crawley RH10 6TL

- 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 Zonny Setio against the decision of Crawley Borough Council.
 - The application Ref CR/2020/0279/192, dated 22 May 2020, was refused by notice dated 17 July 2020.
 - 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 described as "proposed garage conversion".
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is considered to be lawful.

Procedural Matters

2. The certificate seeks to establish whether the works would have been lawful on the date of the application. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. On appeal, the Inspector's role is to decide whether, on the evidence, the Council's refusal to issue an LDC was well-founded or not. The case must be considered solely on the facts of the case, the relevant planning law and judicial authority, and its planning merits are of no relevance. The appellant must show, on the balance of probabilities, that the development proposed would, at the date of application, be lawful.
3. The appellant seeks to establish that the proposal would be granted permission by virtue of Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO). Subject to limitations and conditions, Class A of Schedule 2, Part 1 of the GPDO permits the enlargement, improvement, or other alteration of a dwellinghouse. There is no dispute between the parties that if permitted development (PD) rights apply to this property, the development would adhere to the limitations and conditions under Class A set out at paragraphs A.1, A.2 and A.3. I also note that the Council's Officer's Report and appeal statement confirms that the proposed materials would match those of the existing

building. I have found no reason to disagree with these findings and have determined the appeal on this basis.

4. The Council originally determined that a certificate of lawfulness cannot be issued as there is a restrictive condition on the original planning permission for the dwellinghouse¹ which stated that all garage spaces and parking spaces shall be maintained to the satisfaction of the Council. Therefore, the Council determined that the conversion of the garage to habitable accommodation would not be lawful and planning permission is required for the works. However, the Council have since confirmed that the reason for refusal on the decision notice refers to the incorrect planning permission. Notwithstanding this error the Council states that the correct planning permission for the appeal property² nevertheless includes condition 8 which requires the retention of the car-parking spaces on site. The Council therefore considers that PD rights under Class A of Schedule 2, Part 1 of the GPDO do not apply.

Main Issue

5. Consequently, the main issue is whether the Council's refusal to grant the LDC was well founded. In particular, it is necessary to consider whether there are any conditions on the previous planning permission which restrict PD rights for the proposed development.

Reasons

6. Condition 8 of planning permission ref: CR/95/0100/OUT states:

"The building hereby permitted shall not be occupied until provision for car parking has been made within the site in accordance with details to be submitted to and approved by the Local Planning Authority and such provision shall thereafter be used only for the parking of cars.

REASON: To ensure that adequate and satisfactory provision is made for the parking of vehicles clear of adjacent highways."

7. The Council state that the approved plans for the houses specifically show the garages and that they are one of the two spaces provided for individual houses. The Council also refer to comments received from West Sussex County Council Highways, which specifically refer to acceptability of the access and the requirement for a 6m gap in front of the garage. The Council therefore consider that the garages form an integral part of the parking provision for the development, and any changes to the garages that would result in them not being able to be retained for car-parking would be contrary to the condition.
8. The general layout plan which was approved on the subsequent reserved matters application³ has been submitted as part of this appeal. From my reading of the approved plan and the original planning permission for the appeal property, the approved layout shows a garage and an area directly in front of the garage which could also be used for car parking. However, the approved plan does not explicitly state that the garage must be retained for the parking of vehicles only. Nor does condition 8 implicitly intend to seek to remove PD rights for any type of development within the GPDO.

¹ Council Ref: CR/141/1975

² Council ref: CR/1995/0100/OUT

³ Council ref: CR/1995/0624/ARM approved on 24th January 1996.

9. Whilst I note that the Council state that the garage is one of the two parking spaces which would have been provided for this property, I observed that there were two vehicles comfortably parked on the driveway of the property, in front of the garage.
10. As such, based on all the evidence before me, there is nothing to suggest that condition 8, and the original planning permission requires the retention of the garage for car-parking, and therefore PD rights apply, with regards to the conversion of the garage, under Article 3 and Class A of Part 1, Schedule 2 of the GPDO.
11. As outlined above, there is no dispute between the parties that the proposed development would adhere to the limitations and conditions under Class A set out at paragraphs A.1, A.2 and A.3. As I have found no reason to disagree with these findings, the proposed garage conversion would not fail to meet the limitation and conditions under Article 3 and Class A of Part 1, Schedule 2 of the GPDO.

Conclusion

12. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed garage conversion was not well-founded and that the appeal should succeed. I exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

R Satheesan

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 dated 22 May 2020 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 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 building operations would be development permitted under the provisions of Class A of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015.

R. Satheesan

Inspector

Date: 05 March 2021

Reference: APP/Q3820/X/20/3260823

First Schedule

Proposed garage conversion

Second Schedule

Land at 20 Beechside, Southgate, Crawley RH10 6TL

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, was /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 /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.

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 the Lawful Development Certificate dated: 05 March 2021

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Not to scale.

