



Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2021

Appeal Ref: APP/N0410/X/21/3273807

59 Plough Lane, Stoke Poges, Slough SL2 4JP

- 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 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 R Grewal against South Bucks District Council.
 - The application (Ref. PL/20/4346/SA) is dated 15 December 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 a proposed outbuilding.
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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 found to be lawful.

Reasons

2. When the application for the proposed outbuilding was submitted to the Council, there was a concern that the building would not meet the limitation under Schedule 2, Part 1, Class E(f) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Measured from the proposed elevations drawing, the height of the eaves of the building would be 2.6m thus exceeding the 2.5m height limitation.
3. The appellant acknowledged the error and submitted an amended drawing dated 9 March 2021 which clearly marks the height of the eaves at 2.5m that would accord with the Government guidance "Permitted development rights for householders: technical guidance (2019)". The appellant advises that the plan was sent to the Council on the day the Council raised the height issue, that being 9 March 2021. The Council confirms that apart from the height of the building, all other conditions and limitations under Class E would be met.
4. I can appreciate that assessing an application for a LDC is a legal determination. However, having raised the issue of the height of the proposed outbuilding, and then having received an amended plan addressing and clarifying what the height would be, the Council was in a position that it had plans showing that the proposal would have planning permission granted by the GPDO. Thus, it would have been lawful, and it could have issued a LDC

accordingly. It was not bound to only base its decision on the original plans, and I can see that it would serve no public purpose in doing so. The Council has since granted a LDC for the proposed outbuilding based on it being in line with the GPDO planning permission under Class E.

5. In view of the above, I have no alternative but to duplicate the Council's subsequent decision based on the drawing showing 'Proposed Front Elevation' with an amendment dated 09/03/2021.

Conclusion

6. For the above reasons, I conclude that had the Council refused the LDC, its refusal would not have been well founded. I will therefore allow the appeal and exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Gareth Symons

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 15 December 2020 the operation 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 outbuilding would have planning permission by virtue of Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This is based on the building having an eaves height of 2.5m as shown on the amended drawing dated 9 March 2021.

Signed

Gareth Symons

Inspector

Date 27 October 2021

Reference: APP/N0410/X/21/3273807

First Schedule

An outbuilding

Second Schedule

Land at 59 Plough Lane, Stoke Poges, Slough SL2 4JP

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: 27 October 2021

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Scale: Do not scale.

