



Appeal Decision

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2022

Appeal Ref: APP/K0235/X/21/3283019

4 Court Lane, Stevington, Bedford MK43 7QS

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended 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 Mrs Nicola Lewis against Bedford Borough Council.
 - The application ref 21/01418/LDP is dated 6 May 2021.
 - 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 single storey rear extension.
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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 use which is found to be lawful.

Preliminary Matters

2. The Planning Inspectorate initially made arrangements for the appeal to be dealt with under the Written Representations procedure following a site visit. The file has subsequently been reviewed to consider the optimal procedure for the appeal. It appeared that the appeal could be determined on the papers, that is, 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 information to understand the nature of the site given the grounds of appeal and points in dispute.
3. The parties were contacted on 3 March 2022, to seek their comments regarding the determination of the appeal without a site visit. No comments were received from either party. Confirmation was sent to both parties on 16 March 2022 that the appeal would be determined without a site visit taking place.
4. The application sought to establish whether the construction of a single storey rear extension in the location and of the dimensions set out in the application would be lawful. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. The applicant must show, on the balance of probabilities, that the development proposed would, at the date of application, be lawful.

Main issue

5. The appeal has been submitted against the failure of the Council to determine the application for an LDC within the prescribed period. The main issue is therefore if the Council had refused the application whether or not their refusal would have been well-founded.

Reasons

6. The Council has confirmed that subject to confirmation that the external materials will be of a similar appearance to those used in the construction of the dwelling house, it would have issued an LDC had it been able to determine the application. The appellant has subsequently agreed that external materials of a similar appearance will be used. Thus, there is no dispute between the parties that the development would be lawful.
7. On the basis of the evidence before me, I have no reason to differ from the agreed view that the proposed single storey rear extension would constitute permitted development under Class A of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
8. For the reasons given above I conclude, on the evidence now available, that if the Council had refused the application their refusal would not have been well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Sarah Dyer

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 6 May 2021 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged 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 proposal constitutes development within the meaning of section 55 of the Town and Country Planning Act 1990 for which planning permission is required.

Planning permission is granted by Article 3(1) Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) since the development falls within Part 1 Class A of the GPDO.

Signed

Sarah Dyer

Inspector

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First Schedule

The erection of a single storey rear extension as shown on:

4 Court Lane Location Plan

Drawing no. 00001-NCL-01-XX-DR-X-0100

4 Court Lane, Stevington – General Arrangement Drawing: Proposed

Second Schedule

Land at 4 Court Lane, Stevington, Bedford MK43 7QS

IMPORTANT NOTES – SEE OVER

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: 24th March 2022

by Sarah Dyer

Land at: 4 Court Lane, Stevington, Bedford MK43 7QS

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Scale: Not to Scale

