



Appeal Decision

by **S A Hanson BA(Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Appeal Ref: APP/P1805/X/22/3308058

4 Blossom Drive, Bromsgrove, Worcestershire B61 0UF

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended against a refusal to grant a certificate of lawful use or development.
 - The appeal is made by Mrs Anna Gregory against the decision of Bromsgrove District Council.
 - The application ref 22/01019/CPL, dated 22 July 2022, was refused by notice dated 22 September 2022.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended (the Act).
 - The development for which a certificate of lawful use or development is sought is described as a 1.2 x 3.7 single storey rear extension under permitted development.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development (LDC) describing the proposal which is considered to be lawful.

Preliminary Matters

2. It has not been necessary to carry out a site visit as, in this particular case, where all the required information is included with the application and appeal documents, a decision can be reached on the papers. Both parties were given the opportunity to comment on the appropriateness of the proposed approach. No comments were received.
3. Section 192(2) of the Act indicates that if, on an application under that section, the council is provided with information satisfying it that the use or operations described in the application would be lawful, if instituted or begun at the time of the application, they shall issue a certificate to that effect. In any other case they shall refuse the application. The onus is firmly on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful.
4. For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision will be based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.

Main Issue

5. This is whether the council's decision to refuse to issue an LDC was well-founded. The decision turns on whether the proposal is permitted development under Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO).

Reasons

6. Article 3(1) of the GPDO grants planning permission for the classes of development set out in Schedule 2 of the Order. It includes at Part 1, Class A, the enlargement, improvement or other alteration of a dwellinghouse. This is subject to the limitations set out in paragraphs A.1 and A.2 and the conditions in paragraph A.3.
7. It was the council's view that the proposal would adjoin an existing extension at the rear of the property, and together would extend beyond a wall forming a side elevation of the original dwellinghouse. Therefore, it was considered that as this would have a width greater than half the width of the original dwellinghouse it would not comply with the limitations set out in (j) and (ja) of Class A and would not therefore constitute permitted development.
8. Paragraph (ja) states that any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j);].
9. Paragraph (j) states that the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—
 - (i) exceed 4 metres in height,
 - (ii) have more than a single storey, or
 - (iii) have a width greater than half the width of the original dwellinghouse; [...]
10. Since the submission of this appeal, an LDC¹ has been issued for the same development proposal. The proposal identified the extent of the *original dwellinghouse* to include the single storey rear projection to which the proposed extension would be attached. The council therefore considered in this instance, that the single storey rear extension, as proposed by the LDC application, would comply with the relevant permitted development limitations set out under Part 1, Class A of the GPDO, subject to the conditions in paragraph A.3.
11. In consideration of the evidence before me, the appeal proposal, in accordance with Drawing No.2022-PL03 dated 14 July 2022, would be permitted by Class A, Part 1 of Schedule 2 of the GPDO and express planning permission would not be required.

Conclusion

12. For the above reasons and having regard to all other matters raised, I consider that the single storey rear extension would have been lawful on the application date. I conclude that the Council's refusal to grant an LDC was not well-founded and the appeal should succeed. I will exercise accordingly the powers transferred to me in s195(2) of the 1990 Act as amended.

S A Hanson

INSPECTOR

¹ 22/01299/CPL notice dated 15 November 2022

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 22 July 2022 the development 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 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed development would have constituted permitted development within the terms of Article 3 and Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 subject to compliance with the conditions set out in paragraph A.3.

Signed

S A Hanson
INSPECTOR

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First Schedule

Erection of a 1.2 x 3.7 single storey rear extension under permitted development as shown on Drawing No.2022-PL03 dated 14 July 2022

Second Schedule

Land at: 4 Blossom Drive, Bromsgrove, Worcestershire B61 0UF

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 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 described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use 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: 27 February 2023

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Scale: Not to scale

