



Appeal Decision

Site visit made on 15 December 2023

by Mr Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 January 2024

Appeal Ref: APP/W4325/X/23/3318320

136 Prenton Hall Road, Prenton, Wirral CH43 3BJ

- 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 (LDC).
 - The appeal is made by Mr Jonathan Perera against the decision of Wirral Metropolitan Borough Council.
 - The application ref LDP/22/01732, dated 27 September 2022, was refused by notice dated 25 January 2023.
 - 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 remodelling and repurposing of internal spaces only, principally, the creation of internal space from an attached garage into habitable room.
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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.

Preliminary Matters

2. The appellant has submitted revised drawings with the appeal, which substitute the bow window with a standard, casement window. These drawings were not submitted with the LDC application, which was determined on the basis of the development having a bow window. The proposed change in window style is minor in nature. The Council have been given the opportunity to comment on the revised scheme and confirm that it would be permitted development. Consequently, I have determined the appeal on the basis of the revised drawings. I am satisfied that no parties would be prejudiced in me doing so.
3. At the time of my site visit, the development had already been carried out with the standard, casement window installed. The appeal has been determined on the basis of whether the development would have been lawful at the time the LDC application was made. There is no evidence before me that the development was carried out prior to the submission of the LDC application. Therefore, the appeal proceeds on the basis that the application was correctly made under section 192(1)(b) of the Town and Country Planning Act 1990.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC is well-founded.

Reasons

5. Based on the revised drawings, the Council confirm the development would be permitted development under Class A, Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO), On the evidence before me, I find no reason to conclude otherwise.
6. As such, the proposal satisfies the requirements of Class A of the GPDO and therefore would be permitted development.

Conclusion

7. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

A Walker

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 27 September 2022 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 proposed development would benefit from deemed planning permission pursuant to Article 3 of, and Class A of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 as amended.

Signed

A Walker

Inspector

Date: 9 January 2024

Reference: APP/W4325/X/23/3318320

First Schedule

Remodelling and repurposing of internal spaces only, principally, the creation of internal space from an attached garage into habitable room.

Second Schedule

Land at 136 Prenton Hall Road, Prenton, Wirral CH43 3BJ

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

Plan

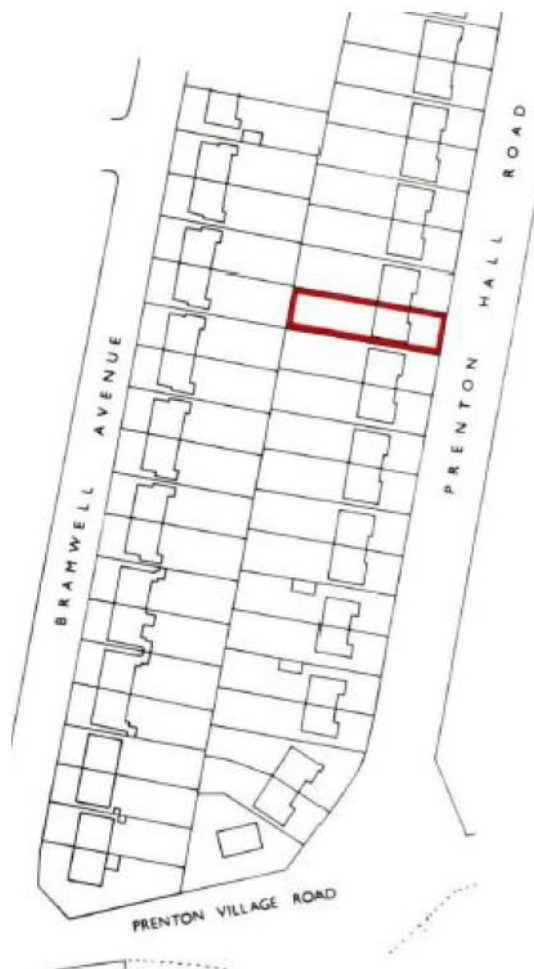
This is the plan referred to in the Lawful Development Certificate dated: 9 January 2024

by A Walker MPlan MRTPI

Land at: 136 Prenton Hall Road, Prenton, Wirral CH43 3BJ

Reference: APP/W4325/X/23/3318320

Scale: Not to Scale



① Location Plan
1:1250

0 10 20

