



Appeal Decision

Site visit made on 12 March 2024

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th March 2024

Appeal Ref: APP/Z3825/X/22/3310916

Emmanuel Cottage, Rusper Road, Ifield RH11 0LN

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Adam Pearman against the decision of Horsham District Council.
 - The application ref DC/22/1354, dated 14 July 2022, was refused by notice dated 13 October 2022.
 - The application was made under section 192(1)(b) of the Act.
 - The development for which a certificate of lawful use or development is sought is described in the application form as 'creation of an outbuilding and internal alterations'.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed operation which is found to be lawful.

Preliminary Matters

2. Based on the proposed plans and description provided in the application form, the proposed development would include the demolition of 3 outbuildings and internal alterations to the appeal dwelling. Two of the outbuildings had been demolished at the time of my site visit. There is no suggestion from the Council that these elements of the proposal would be unlawful, and I see no reason to reach different conclusions. The dispute between the main parties relates to the proposed outbuilding.

Main Issue

3. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded, with particular regard to whether the proposed outbuilding would constitute permitted development by virtue of the provisions of Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

4. Article 3(1) and Class E, Part 1 of Schedule 2 of the GPDO permit the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such, subject to limitations set out at paragraph E.1 of Class E. There is no dispute that the proposed outbuilding would accord with those limitations, and I see no reason to find otherwise.

5. However, the Council claims that it has not been demonstrated, on the balance of probabilities, that the proposed outbuilding would be reasonably required for purposes incidental to the enjoyment of the dwellinghouse, and that it would not therefore fall within the description of development authorised by Class E.
6. The proposed outbuilding would comprise 4 rooms which would be used as domestic storage space, home office space, and a workshop for woodworking and furniture restoration. The tools and materials associated with woodworking and furniture restoration, which are hobbies of the appellant, include table saws, workbenches, sanders, a pillar drill, and sheet timber. The proposed home office space would be used by 2 occupants of the house. Gardening tools and machinery, and other domestic items, such as a lawn mower, leaf blower, and children's bicycles would also be stored within the proposed outbuilding.
7. The size, layout and overall design of the proposed outbuilding would all be commensurate for its purpose, even when accepting that its footprint would be greater than that of the house and an adjacent garage building. The proposed outbuilding would occupy a small proportion of the sizeable plot, and would have a close, direct relationship with the house. As a single storey building, its character, size and use would all be subservient to the 2-storey house.
8. Taking the size and layouts of the house and its plot into account, the proposed outbuilding would be reasonably required to provide space for domestic storage, 2 people working from home, and woodworking hobbies. The proposed outbuilding is not excessive in size for those purposes, the scale and nature of which would be incidental to the enjoyment of the dwellinghouse as such.
9. The evidence demonstrates, on the balance of probabilities, that the proposed outbuilding would accord with the planning permission granted by Article 3(1) and Class E, Part 1 of Schedule 2 of the GPDO. The proposed outbuilding would therefore be lawful.

Conclusion

10. 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 creation of an outbuilding and internal alterations was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the Act.

L Douglas

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 14 July 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 reasons:

The proposed outbuilding would be required to provide space for domestic storage, working from home for 2 people, and woodworking hobbies. It would be required for purposes incidental to the enjoyment of the dwellinghouse as such. The proposed outbuilding would accord with the limitations set out at paragraph E.1 of Class E, Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The proposed outbuilding, as shown on Drawing Nos. RR-R00-PR-101, RR-R00-PR-105, RR-R00-PR-109, RR-R00-PR-110, and RR-R00-PR-111, would therefore accord with the planning permission granted by Article 3(1) and Class E, Part 1 of Schedule 2 of the GPDO.

The proposed internal alterations, as shown on Drawing Nos. RR-R00-PR-102 and RR-R00-PR-103, would affect only the interior of the dwellinghouse. They would not therefore constitute development requiring planning permission, with regard to sections 55 and 57 of the Town and Country Planning Act 1990 (as amended).

Signed

L Douglas
Inspector

Date: 14th March 2024

Reference: APP/Z3825/X/22/3310916

First Schedule

creation of an outbuilding and internal alterations

Second Schedule

Land at Emmanuel Cottage, Rusper Road, Ifield RH11 0LN

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: 14th March 2024

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Scale: Not to Scale

