

---

# Appeal Decision

Site visit made on 29 May 2024

**by AJ Steen BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> June 2024**

---

**Appeal Ref: APP/J1535/X/24/3337480**

**The Barn, Silver Lane, Willingale, Ongar, Essex CM5 0QR**

- 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 Tony Cicchirillo against the decision of Epping Forest District Council.
- The application ref EPF/1496/23, dated 7 July 2023, was refused by notice dated 27 October 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 single storey side extension.

**Summary Decision: The appeal is allowed and a certificate of lawful use or development is issued, in the terms set out below in the Formal Decision.**

---

## Application for Costs

1. An application for costs was made by Mr Tony Cicchirillo against Epping Forest District Council. This application is the subject of a separate Decision.

## Preliminary Matters and Main Issue

2. The appellant suggests that the single storey side extension would be constructed in accordance with the planning permission granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), known as 'permitted development'. The parties agree that the extension would meet the requirements of Class A, Part 1, Schedule 2 of the GPDO. I see no reason to disagree.
3. However, the Council allege that The Barn is within the curtilage of the listed building at Clapgate Farmhouse and, as a result, they contend that it doesn't benefit from the rights under Article 3 and Class A, Part 1, Schedule 2 of the GPDO. They have refused the application for a lawful development certificate on that basis.
4. Even if I were to issue a certificate under section 192(1)(b) of the Town and Country Planning Act 1990, listed building consent may also be required under the provisions of section 10 of the Planning (Listed Building and Conservation Areas) Act 1990 (the Listed Buildings Act). It would be possible to apply for a certificate of lawfulness of proposed works to a listed building under section 26H of the Listed Buildings Act to determine whether listed building consent would be required.

5. The main issue, therefore, is whether the Council's decision was well-founded in relation to whether the rights under Article 3 and Class A, Part 1, Schedule 2 of the GPDO are limited where the dwellinghouse is within the curtilage of a listed building and, if so, whether the dwellinghouse is within the curtilage of a listed building.

### **Reasons**

6. Following a request my attention has not been drawn to any part of the GPDO or elsewhere that limit rights under Article 3 and Class A, Part 1, Schedule 2 in the case of curtilage listed structures and I have been unable to find any such restriction. By contrast, I note that in the case of Class E, Part 1, Schedule 2 of the GPDO under paragraph (g) any building, enclosure, pool or container would not be permitted if situated within the curtilage of a listed building.
7. As a result, whether or not the building is within the curtilage of a listed building does not affect whether it would comply with Class A, Part 1, Schedule 2 of the GPDO.
8. Given my conclusions on this matter, I do not need to consider whether the dwellinghouse is within the curtilage of a listed building.

### **Formal Decision**

9. 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.

*AJ Steen*

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 3 July 2023 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 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The development would benefit from the planning permission granted by Article 3 and Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

*AJ Steen*

Inspector

Date: 17<sup>th</sup> June 2024

Reference: APP/J1535/X/24/3337480

## **First Schedule**

Single storey side extension as shown on drawings numbered and titled Location Plan, Existing Plan\_311, Existing Plan\_310, Proposed Elevations Option 1\_310, Proposed Plan Option 2\_320

## **Second Schedule**

The Barn, Silver Lane, Willingale, Ongar, Essex CM5 0QR

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 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, 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 operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any 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: 17<sup>th</sup> June 2024

**by AJ Steen BA (Hons) DipTP MRTPI**

**Land at: The Barn, Silver Lane, Willingale, Ongar, Essex CM5 0QR**

**Appeal ref: APP/J1535/X/24/3337480**

Not to scale

