



Appeal Decision

Site visit made on 23 July 2024

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2024

Appeal Ref: APP/Z0116/X/23/3331564

59 Grove Park Terrace, Fishponds, Bristol, BS16 2BL

- 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 Daisy Mason against Bristol City Council.
 - The application ref 23/02784/CP is dated 13 July 2023.
 - The application was made under section 192(1)(a) and (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 the conversion of an existing detached garage into a home office and storeroom.
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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 development which is found to be lawful.

Main Issue

2. The main issue is whether, at the time of the application, the proposed conversion would have constituted development under Section 55 of the Town and Country Planning Act 1990 (the Act) and if so, whether that development would be permitted development under the Town and Country Planning General Permitted Development (England) Order 2015 (as amended) (the GPDO).

Reasons

3. The existing garage is a detached building positioned alongside the dwelling, 59 Grove Park Terrace. It is set back behind the front elevation and is sited along the boundary with the neighbouring property.
4. Section 55(1) of the Act defines the meaning of "development" as "the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land".
5. While Section 55(2) lists operations or uses of land that shall not be taken for the purposes of the Act to involve development. These include "(d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such".
6. It is first therefore necessary to establish whether the existing garage falls within the curtilage of the dwellinghouse. In light of its position adjacent to the dwelling, accessed from and lying within the area of land immediately surrounding it, I find that the garage is within the curtilage and as such the use

of the garage as a home office and storeroom, in association with the existing dwelling would not constitute development as set out in Section 55(2)(d) of the Act.

7. There are also a number of external alterations proposed, including the replacement of a window to the rear elevation, vertical cladding to the side and rear walls, and the replacement of the roof covering. No alterations are proposed to the front elevation.
8. Class E(a) of Part 1 of Schedule 2 of the GPDO allows the provision within the curtilage of the dwellinghouse of "any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure." (*my emphasis*)
9. Therefore, as I have concluded that the appeal building is within the curtilage of the dwellinghouse, and I find that the proposal would not conflict with any relevant limitation set out in paragraph E.1 of the GPDO, the external alterations would be permitted development. I have no information to show that the garage was constructed under Class E, however Class E also applies to alterations of a building within the curtilage of a dwellinghouse.

Conclusion

10. For the reasons given above I conclude, on the evidence now available, that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act (as amended).

Martin Allen

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 the use and 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 use of the garage as a home office and storeroom is not development under Section 55 of the Town and Country Planning Act 1990, as the garage is within the curtilage of the dwelling. The external alterations comply with Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

Martin Allen

INSPECTOR

Date: 16 September 2024

Reference: APP/Z0116/X/23/3331564

First Schedule

Conversion of an existing detached garage into a home office and storeroom.

Second Schedule

Land at 59 Grove Park Terrace, Fishponds, Bristol BS16 2BL

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: 16 September 2024

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Land at: 59 Grove Park Terrace, Fishponds, Bristol BS16 2BL

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Scale: Not to Scale

