



Appeal Decision

Site visit made on 4 February 2025

by **N Thomas MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal Ref: APP/C3620/X/24/3338973

25 Hart Road, Dorking, Surrey RH4 1LA

- 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 Mrs Maria Stock against the decision of Mole Valley District Council.
 - The application ref MO/2023/1942/PCL, dated 16 December 2023, was refused by notice dated 3 January 2024.
 - 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 to replace garage door with window.
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Decision

1. The appeal is dismissed.

Reasons

2. In an application for an LDC, the onus is on the applicant to provide all the relevant information and evidence to support their case. On appeal, the Inspector's role is to decide whether, on the evidence, the Council's refusal to issue an LDC was well-founded or not. The case must be considered solely on the relevant legal tests, and its planning merits are of no relevance. I cannot therefore have regard to the effects on the aesthetic value or energy efficiency of the property. The burden of proof lies with the appellant. The appellant must show, on the balance of probabilities, that the development proposed would, at the date of application, be lawful. The main issue is whether the Council's decision is well-founded.
3. The certificate seeks to establish that it would be lawful to replace the garage door with a window. This would involve partially infilling the existing opening. The Council refused the application on the grounds that the site is within Dorking Conservation Area, where there is an Article 4 direction restricting alterations to dwellings, that would normally be permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO).
4. Article 4 of the GPDO sets out that a direction may be made that the permission granted by Article 3 of the GPDO does not apply to all or any development of the part, class or paragraph in question in an area specified in the direction.
5. In this case, the Article 4 direction states that permitted development rights set out in, amongst other things, Class A of Part 1 of the GPDO do not apply where an enlargement, improvement or other alteration of a dwellinghouse would front a road.

6. The removal of the garage door, the infilling of the opening and the insertion of a window would involve an alteration to the dwellinghouse. There is no dispute that this would be development for the purposes of section 55 of the Act. As the alteration would affect the front elevation of the dwellinghouse, which faces Hart Road, it would be an alteration under Part 1, Class A of the GPDO for which the permitted development right is removed by the A4 direction. The development would not therefore be lawful at the date of application and planning permission would be required.

Conclusion

7. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development to replace the garage door with a window is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

N Thomas

INSPECTOR

