



Appeal Decision

Site visit made on 31 March 2025

by A Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Appeal Ref: APP/Y3425/X/24/3347957

New Inn Bank Farm, New Inn Bank, Bishops Offley, Stafford, Staffordshire ST21 6HD

- 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 Mr Dan Bolton against Stafford Borough Council.
 - The application ref 24/38622/LDCPP is dated 10 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 described as 'New garage/outbuilding for domestic use. Garage to measure 10m x 6m. Siting is shown on site and block plans. Soakaways will be used for the removal of surface water. Flat roof, no more than 2.5m from external ground floor level. Side extension off the original dwelling. Extension to measure 6m x 3.1m. Proposals do not extend beyond 50% of the width of the original property. Eaves and ridge to match existing. Eaves 2.5m and ridge 3m.'
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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 existing use which is found to be lawful.

Main Issue

2. The appeal is made against the Council's failure to give notice within the prescribed period of a decision on the application for an LDC. The Council confirm that had they retained jurisdiction to determine the LDC application, they would have refused to grant a certificate. The main issue is therefore whether the Council's decision to refuse to grant an LDC would have been well-founded had they determined the application.

Applications for costs

3. An application for costs is made by Mr Dan Bolton against Stafford Borough Council in relation to the appeal. This application is the subject of a separate Decision.

Reasons

4. The onus is on the appellant to demonstrate, on the balance of probabilities, that the proposal would be lawful.
5. Under Class A, Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (the GPDO), the enlargement, improvement or other alteration of a dwellinghouse is permitted development. There is no dispute that the proposed extension meets the conditions and

limitations of Class A. The Council raise no objection to the extension and based on the evidence before me, including the observations I made on site, I find no reason to conclude otherwise.

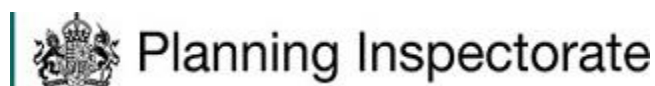
6. There is also no dispute between the parties that the proposed garage would meet the conditions and limitations set out in paragraph E.1, Class E, Part 1 of Schedule 2 of the GPDO. However, the Council objects to the garage on the basis it would be located outside the curtilage of the dwelling and therefore would not be permitted development.
7. The test of whether land is curtilage is for one corporeal hereditament to fall within the curtilage of another, the former must be so intimately associated with the latter as to lead to the conclusion that the former in truth forms part and parcel of the latter. It need not form a single enclosure.
8. The land on which the garage would be sited is modest in size. Situated on the land is a detached, single garage accessed via a vehicular access off the adjacent highway; an LPG tank; and, a septic tank. Although there is no door from the dwelling that opens directly on to the land, there is pedestrian access via the eastern most open shelter that links the subject land with the dwelling and other associated land to the south. This would likely be the access route into the dwelling when cars are parked in the garage or on the driveway; the alternative route being to leave the site via the vehicular access and re-enter via the pedestrian access further to the south, which would be longer and less safe, with one having to walk along the road.
9. The Council rely on historical plotting maps from 1924 and 1965. On these maps there is a clear line dividing the subject land from the dwelling and other associated land to the south. Notwithstanding there is little evidence on the maps to indicate what this line depicts or what the land was used for, residential curtilage can evolve over time.
10. The Council also note that on the drawings attached to planning permission 29591, granted in 1993, there is a stone wall between the subject land and the dwelling. However, the stone wall on the drawing does not extend the full width of the site. It stops short of the eastern boundary, providing what appears to be a gap, likely allowing access between this land and the land to the south.
11. The aerial photograph dated 2009 appears to depict the single garage and LPG tank in situ. Therefore, it has likely it has been in residential garden use associated with the dwelling for some time.
12. Based on the fact that the land is used to contain services associated with the dwelling, ie the LPG tank and septic tank; is used for the parking of vehicles, including a detached garage; and, is physically attached to the dwelling, it is clearly so intimately associated with the dwelling that it forms part and parcel of it. Accordingly, the land is part of the residential curtilage of the dwelling. As the proposed development would be within the curtilage of the dwellinghouse and would satisfy the requirements of Classes A and E of the GPDO, it would therefore be permitted development.

Conclusion

13. 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 10 January 2024 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 proposed development would be permitted development pursuant to Article 3 of, and Classes A and E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 as amended.

Signed

A Walker

Inspector

Date: 14 April 2025

Reference: APP/Y3425/X/24/3347957

First Schedule

New garage/outbuilding for domestic use. Garage to measure 10m x 6m. Siting is shown on site and block plans. Soakaways will be used for the removal of surface water. Flat roof, no more than 2.5m from external ground floor level. Side extension off the original dwelling. Extension to measure 6m x 3.1m. Proposals do not extend beyond 50% of the width of the original property. Eaves and ridge to match existing. Eaves 2.5m and ridge 3m.

Second Schedule

New Inn Bank Farm, New Inn Bank, Bishops Offley, Stafford, Staffordshire ST21 6HD

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 this decision dated: 14 April 2025

by A Walker

Land at: New Inn Bank Farm, New Inn Bank, Bishops Offley, Stafford, Staffordshire ST21 6HD

Reference: APP/Y3425/X/24/3347957

Scale: Not to Scale

