
Appeal Decision

Site visit made on 22 April 2025

by **Nick Fagan BSc (Hons), DipTP, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 April 2025

Appeal Ref: APP/V1260/X/24/3347502

2 Minterne Road, Bournemouth BH9 3EH

- 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 Susan Mellor against the decision of Bournemouth Christchurch and Poole Council.
 - The application ref 7-2023-22408-B, dated 29 September 2023, was refused by notice dated 19 December 2023.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which a certificate of lawful use or development is sought is use of converted garage as self-contained dwelling (Use Class C3).
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the existing lawful development and a plan showing hatched the location of the detached dwelling in the former domestic garage next to the main dwelling at 2 Minterne Road, Bournemouth BH9 3EH.

Main Issue

2. The main issue, as usual in LDC appeals, is whether the Council's refusal is well-founded, having regard to whether the converted garage located immediately to the side of the house has been continuously occupied as a self-contained dwelling for a period of 4 years prior to the submission of the application.

Reasons

3. The burden of proof in such appeals falls on the appellant. She must establish, on the balance of probability, that the outbuilding has been continuously used as a dwelling for a 4-year period following its conversion from a domestic garage, which I understand from the appellant's submitted documents was completed in 2013. This 4-year period can be any period since the completed conversion; it does not have to be a 4-year period immediately preceding the submission of the application.
4. Planning Practice Guidance on LDCs reflects caselaw. It sets out that appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal provided the evidence alone is sufficiently precise and unambiguous.

5. Planning permission was granted in 2008 for alterations to the main house including a single storey rear extension, loft conversion and erection of the garage. The appellant says the garage was converted in 2013 to a self-contained dwelling. The layout plan and cross section contained in her appeal statement accurately show its current layout. The Council does not contest this.
6. As part of the appeal documentation the appellant has submitted a Statutory Declaration (Stat Dec) stating that the dwelling in the former garage has been continually inhabited (bar short breaks between tenants) from 1 June 2014 up to the date the application was submitted on 29 September 2023, by 6 sets of tenants. Another Stat Dec is also submitted by a couple, the longest serving set of tenants during this period, who occupied the dwelling between September 2020 and 15 April 2024. That is a period well in excess of 4 years.
7. The Council does not dispute any of this. It merely says in its appeal statement that insufficient information was submitted with the initial application – just a location plan and bank statements – and suggests that accepting this additional evidence now would prejudice it.
8. I can understand why the Council refused the application at the time – because no evidence had been submitted of a continuous 4-year period of habitation of the dwelling. But there is no prejudice to the Council now in me accepting the appellant's additional evidence because it has had an opportunity to comment on and rebut this evidence as part of the appeal. However, it has not done so, which suggests it has no contradictory evidence.
9. The Council has not contradicted or provided any evidence to make the appellant's version of events less than probable, nor have any other third parties. The appellant's version of events, as set out in her Stat Dec and appeal statement and the tenant's Stat Dec, combined with the Santander online banking statement which list the payments from all the tenants at the times of their habitation of the garage dwelling, is sufficiently precise and unambiguous for me to conclude that this is what has occurred, on the balance of probability.
10. For these reasons, although the Council's refusal at the time was well-founded, the appeal succeeds, and I attach an LDC for the dwelling below accordingly.

Nick Fagan

INSPECTOR

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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 29 September 2023 the operations described in the First Schedule hereto in respect of the building specified in the Second Schedule hereto and hatched black on the plan attached to this certificate, was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The former garage building, which was converted into a self-contained dwelling from a domestic garage in 2013, has been continuously residentially occupied for a period in excess of 4 years commencing in 2014 up to the date of the submission of the application.

Signed

Nick Fagan

Inspector

Date: 29 April 2025

Reference: APP/V1260/X/24/3347502

First Schedule

Use of converted garage as self-contained dwelling (Use Class C3)

Second Schedule

2 Minterne Road, Bournemouth BH9 3EH

NOTES

This certificate is issued solely for the purpose of Section 191 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 were 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: 29 April 2025

by Nick Fagan BSc DipTP MRTPI

Land at: 2 Minterne Road, Bournemouth BH9 3EF

Reference: APP/V1260/X/24/3347502

Scale: Approx.1:1250

