



Appeal Decision

Site visit made on 3 July 2025

by **D Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 JULY 2025

Appeal Ref: APP/W4705/X/24/3349746

Beeston Bungalow, Green Lane, Burley Woodhead, Ilkley, LS29 7AZ

- 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 G Allen against the decision of City of Bradford Metropolitan District Council.
 - The application ref 24/01745/CLP, dated 9 May 2024, was refused by notice dated 5 July 2024.
 - The application was made under section 192(1)(a) 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 construction of rear and side extensions and the construction of a detached garage and a detached ancillary outbuilding.
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Decision

1. The appeal is dismissed in so far as it relates to the proposed construction of a detached garage and a detached ancillary outbuilding. The appeal is allowed in so far as it relates to the proposed construction of rear and side extensions and attached to this decision is a certificate of lawful use or development describing the proposed operations which are found to be lawful.

Preliminary Matters

2. For the avoidance of doubt, I make clear that the planning merits of the proposed development is not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.
3. There is no dispute between the main parties that the proposed rear and side extensions are permitted development having regard to the limitations and conditions of Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Having considered the appellant's submitted plans, I do not disagree with this common ground position.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded with particular regard to whether the proposed detached outbuilding and detached ancillary outbuilding are permitted development given the limitations and conditions of Class E of Part 1 of Schedule 2 of the GPDO.

Reasons

5. There is no dispute between the main parties that the two outbuildings meet all the limitations and conditions of Class E of Part 1 of Schedule 2 of the GPDO, apart

from E.1(e) of Class E which is that the height of the building, enclosure or container should not exceed “(i) 4 metres in the case of a building with a dual-pitched roof, (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or (iii) 3 metres in any other case”.

6. The point of dispute relates to whether the outbuildings would be within 2 metres of the boundary of the curtilage of the dwellinghouse. If that is the case, then the respective 3.5 metre (ancillary outbuilding) and 3.9 metre (detached garage) ridge heights for the proposed outbuildings would exceed the 2.5 metre height restriction in E.1(e) of Class E of the GPDO.
7. As part of the appeal, I requested a hard copy of drawing No. A855 03 Revision C printed off to scale. Both the appellant and the Council provided me with copies of such a drawing on the site visit. While the proposed site plan (scale 1:200) includes annotations for both the proposed detached ancillary outbuilding and the detached garage outbuilding which say that they will be “2m away from boundary”, this is not the case when the two outbuildings are scaled off relative to the red edged boundary. The main parties agreed on the site visit that the red edge on the 1:200 scale site plan reflected the residential curtilage of Beeston Bungalow. Furthermore, it was agreed by the main parties on the site visit, both of whom scaled from the plans, that when the outer edge of the footprint of the proposed outbuildings (i.e., the outer edge of the black line) was measured up to the red edged boundary, parts of the proposed outbuildings would be positioned less than two metres from such a boundary.
8. For the proposed detached ancillary outbuilding (referred to as “workshop and storage outbuilding” on the plans), the main parties agreed that parts of it would be 1.90 metres and 1.95 metres from the curtilage of the dwellinghouse. For the proposed detached garage, the main parties agreed that parts of it would be 1.85 metres and 1.95 metres from the curtilage of the dwellinghouse. In measuring the distance from the proposed outbuildings to the curtilage of the dwellinghouse, such a measurement must be from the outer edge of the footprint of the proposed buildings (i.e., the outer edge of the black line). That is because the black line depicts what would be the face of the proposed external elevations, i.e., the nearest parts of the proposed outbuildings when considered against the position of the curtilage of the dwellinghouse on the site.
9. Given the above, there is clearly a conflict between the written annotations on drawing No. A855 03 Revision C for the two outbuildings and what has been drawn to scale on the proposed 1:200 scale site plan. While it may have been the intention of the applicant to position the outbuildings so that they would be “2 metres away from the boundary” of the curtilage of Beeston Bungalow, the 1:200 scale plan does not show that. Such a plan has been submitted alongside the LDC application and I am being asked to reach a conclusion in terms of whether such proposed development would be permitted development if it were begun.
10. It is not possible to impose a condition in respect of an LDC. An LDC is not like a planning permission in this regard. When issuing an LDC, it is necessary that it is clear on its face and that there is no ambiguity. If I were to grant an LDC for the two proposed outbuildings, it would be based on a plan where there is conflicting information about the proximity of the proposed buildings to the boundary of the

curtilage of the dwellinghouse. In this regard, I find that drawing No. A855 03 Revision C does not offer the necessary precision for me to reach a conclusion that the proposed outbuildings would be permitted development.

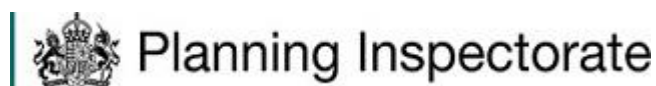
11. Given the identified ambiguity, I am unable to conclude that the proposed outbuildings would be permitted development having regard to the restrictions imposed in E.1(e) of Class E of Part 1 of Schedule 2 of the GPDO. However, I can conclude that the proposed side and rear extensions are permitted development under Class A of Part 1 of Schedule 2 of the GPDO. Therefore, I shall grant an LDC for only the proposed side and rear extensions.

Conclusion

12. For the reasons given above I conclude, on the evidence now available, that (a) the Council's refusal to grant a certificate of lawful use or development in respect of construction of rear and side extensions is not well-founded and the appeal should succeed for that part of the development only; and (b) the Council's refusal to grant a certificate of lawful use or development in respect of the construction of a detached garage and a detached ancillary outbuilding is well-founded and the appeal for that part of the development should fail. I will exercise the powers transferred to me under section 195(2) and 195(3) of the 1990 Act as amended.

D Hartley

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 9 May 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and shown on drawing No. A855 03 Revision C 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 proposed side and rear extensions as shown on drawing No. A855 03 Revision C are permitted development under Class A of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

For the avoidance of doubt, the proposed detached garage and the proposed ancillary detached outbuilding are not permitted development under Class E of Part 1 of Schedule 2 of the GPDO.

Signed

D Hartley

Inspector

Date: **9 JULY 2025**

Reference: APP/W4705/X/24/3349746

First Schedule

Construction of rear and side extensions

Second Schedule

Land at Beeston Bungalow, Green Lane, Burley Woodhead, ILKLEY, LS29 7AZ

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: **9 JULY 2025**

by **D Hartley BA (Hons) MTP MBA MRTPI**

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Scale: Not to Scale

