



Appeal Decision

Site visit made on 8 July 2025

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th July 2025

Appeal Ref: APP/X2410/X/24/3343661

2 Marigold Lane, Mountsorrel, Leicestershire, LE12 7FP

- 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 Ms E. Tebbs against the decision of Charnwood Borough Council.
 - The application ref P/24/0375/2, dated 1 March 2024, was refused by notice dated 29 April 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 LDC is sought is described on the application form as 'single storey extension'.
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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 operation which is found to be lawful.

Preliminary Matters

2. For the purposes of obtaining a LDC the burden of proof lies with the appellant, and the standard of proof is the balance of probabilities. The planning merits of the case are not relevant.
3. The application was made under section 192(1)(b) of the Act, for a certificate of lawfulness of proposed operations to be carried out on the land. The relevant date for ascertaining whether the proposed development would be lawful is the date of the application, which is 1 March 2024. At the time of my site visit, an extension had been built which appears to correspond to that proposed and shown on the submitted plans. My decision is based on those plans. However, should there be any material differences between the extension that has been constructed and that shown on the plans before me, that is a matter for the Council.

Main Issue

4. The main issue is whether the Council's decision to refuse to grant a LDC was well-founded, with particular regard to whether the proposal would be permitted development.

Reasons

5. The appeal site is a two storey house located on the corner of Marigold Lane and Kingfisher Road within a residential estate. The appeal proposal is for a single storey extension featuring a flat roof with a roof light.
6. The submitted plans indicate that the extension would be to the southern elevation of the house. The appellant contends that this is the rear elevation as it is behind the

elevation facing Marigold Lane and they consider the garden here to be the rear garden. However, the main architectural features of the house, including the main entrance door leading into the hallway, with the canopy above it and the windows on either side, are situated in the broad elevation facing east towards Kingfisher Road. I consider this to be the principal elevation of the dwelling having regard to the Technical Guidance: Permitted development rights for householders, September 2019 (the Guidance). In contrast, the northern and southern elevations are narrow gable ends which contain fewer windows and there is no door from Marigold Lane. I therefore consider these to be side elevations, which means that the proposed extension would be to a side elevation of the original dwelling.

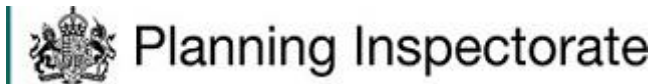
7. For the extension to be permitted development it would need to comply with the limitations and conditions set out in Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The Council accepts that the proposal meets all the criteria at paragraph A.1, with the exception of sub paragraph A.1(e)(ii), on the grounds that the proposed extension would front a highway and forms a side elevation of the original dwelling. Development is not permitted under A.1(e)(ii) if the enlarged part of the dwellinghouse would extend beyond a wall which fronts a highway and forms a side elevation of the original dwellinghouse.
8. The Guidance explains that the restriction in A.1(e)(ii) means that any development to enlarge a house that is in front of a side elevation that fronts a highway will require an application for planning permission. 'Extend beyond a wall' comprises not only the area immediately in front of the wall, but also an area in front of a line drawn from the end of the wall to the boundary of the property. In this case, the proposed extension would be flush with the wall fronting the highway (Kingfisher Road) and would not extend beyond that wall or beyond a line drawn from the end of the wall to the boundary of the property. The Council considers that there is insufficient distance between the house and the highway to be deemed acceptable under sub paragraph A.1(e)(ii). However, this is not a determinative matter given that the proposal would not extend beyond the wall fronting the highway.
9. I conclude that, on the balance of probability, the proposal complies with sub paragraph A.1(e)(ii), and the other criteria under Class A of the GPDO. The proposed extension would therefore be permitted development.

Conclusion

10. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed single storey extension was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

M Ollerenshaw

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 1 March 2024 the operation 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 single storey extension would not extend beyond a wall which fronts a highway and forms a side elevation of the original dwellinghouse, and is permitted development by virtue of Class A of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Signed

M Ollerenshaw

INSPECTOR

Date: **16th July 2025**

Reference: APP/X2410/X/24/3343661

First Schedule

Single storey extension in accordance with the following drawings: 2ML/2024 1/2 and 2ML/2024 2/2

Second Schedule

Land at 2 Marigold Lane, Mountsorrel, Leicestershire, LE12 7FP

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 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, 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 operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any 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: 16th July 2025

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Scale: Not to Scale

