



Appeal Decision

No Site Visit Made

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2025

Appeal Ref: APP/Y0435/X/23/3333871

232 Bradwell Common Boulevard, Bradwell Common, Milton Keynes MK13 8AB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) ("the 1990 Act") against a refusal to grant a certificate of lawful use or development ("LDC").
 - The appeal is made by Mr Maxim Marcenco of Atlant Properties Limited against the decision of Milton Keynes City Council.
 - The application ref 23/01371/CLUP, dated 30 June 2023, was refused by notice dated 11 September 2023.
 - The application was made under section 192(1)(b) of the 1990 Act.
 - The development for which a LDC is sought is the "conversion of garage to bedroom".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning merits of the proposed development are not relevant to this appeal. Therefore, a site visit would not help me reach a decision. I advised the parties of my intention to determine the appeal without a site visit. The Council were content for the process to continue without a site visit. No comments were received from the appellant disagreeing with this approach.
3. The LDC was submitted for a "*proposed*" development under s192 of the 1990 Act. A photograph, submitted with the appeal, shows the development was completed sometime after the LDC was made. I can change a LDC from "*proposed*" to "*existing*" provided the parties are notified of my intention. Furthermore, I can take into consideration new evidence that is submitted as part of a LDC appeal. However, the relevant date for ascertaining whether the development is lawful is the date the LDC was made. Consequently, the development was "*proposed*" on this date and therefore, I must determine the appeal under s192 of the 1990 Act.
4. Should the appellant want the existing development to be considered, they could submit a LDC to the Council under s191 of the 1990 Act.

Main Issue

5. The main issue is whether the Council's decision to refuse to grant a LDC for the proposed development was well-founded.

Reasons

6. For a LDC to be granted under s192 of the 1990 Act, it is necessary for the appellant to demonstrate, on the balance of probabilities, that the use or operations described would have been lawful on the date of the application having regard to

the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“the GPDO”).

7. The appeal site consists of a mid-terrace property with an integral garage. It is proposed to change the garage door to a window so that the existing garage can be used as a bedroom.
8. Class A, Part 1 of Schedule 2 of the GPDO permits the enlargement, improvement or other alteration of a dwellinghouse. The only matter in dispute between the parties is whether the proposal would comply with condition A.3 (a) that states:

“Development is permitted by Class A subject to the following conditions –

(a) the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;”
9. The GPDO does not define “*similar appearance*”. However, the Permitted Development Rights for Householders: Technical Guidance, updated 10 September 2019 (“the Technical Guidance”) advises that condition A.3 (a) is “*intended to ensure that any works to enlarge, alter or improve a house result in an appearance that minimises visual impact and is sympathetic to existing development. This means that the materials used should be of similar visual appearance to those in the existing house, but does not mean that they need to be the same materials*”.
10. The Technical Guidance goes on to give examples, which for replacing or inserting new windows states, “*what is important is that they give a similar visual appearance to those in the existing house, for example in terms of their overall shape, and the colour and size of the frames*”. It is a matter of judgement for the decision maker therefore whether condition A.3 (a) is met.
11. The drawing submitted with the LDC depicts the replacement of the existing garage door with a three-paned clear glazed window with brickwork underneath. This contrasts with the first floor windows shown in the drawing whereby the glazing within each pane is subdivided by bars. Consequently, the proposed windows would not be of a similar visual appearance to those in the existing dwelling.
12. As a result, I am satisfied that, on the balance of probabilities, the proposed development would not comply with condition A.3 (a) of Class A, Part 1 of Schedule 2 of the GPDO. Consequently, the proposed development would not have been permitted development on the date of the application.

Conclusion

13. For the reasons given above, I conclude, that the Council’s refusal to grant a LDC for the conversion of the garage to bedroom is well-founded and the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act.

A Berry

INSPECTOR