



Appeal Decision

No site visit

by **M Madge Dip TP MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 September 2025

Appeal Ref: APP/N1730/X/24/3340101

The Bourne, Redlands Lane, Crondall, Farnham, Hampshire GU10 5RF

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (1990 Act) 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 Dr A and Mrs M Williams against Hart District Council.
 - The application ref 23-01733-LDC is dated 6 August 2023.
 - The application was made under section 191(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 modifications made to original plans for new three bedroom house with carport using permitted development rights granted at appeal (APP/N1730/W/21/3286799) and in accordance with approved plan 21/01893/CON.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address for an appeal is taken from the application form, which in this case identifies the site as *"The Bourne, Redlands Lane, Crondall, Farnham, Hampshire GU10 5RF"*. While the appeal form identifies the site address as *"Chestnut House, Redlands Lane, Crondall, Farnham GU10 5RF"*, no explanation is given for the change. The application form identification shall therefore be used for the purpose of this appeal.
3. My decision rests on the facts of the case and the interpretation of relevant planning law and judicial authority. The burden of proving relevant facts rests on the appellant. For these reasons, a site visit to the property was not necessary as it would not assist my assessment of the evidence.

Reasons

4. The **main issue** is whether the Council's failure to grant an LDC was well founded. In this type of appeal, it is for the appellants to show whether the operations which have been carried out on the land are lawful. The operation would be lawful if no enforcement action may be taken as it did not involve development, did not constitute a breach of planning control or the time for enforcement action has expired. The relevant test is the balance of probability.
5. The meaning of development is set out in s55 of the 1990 Act and s55(1) confirms that the carrying out of building operations on land is development. The building operations carried out on the land are the erection of a three bedroom dwelling

and a detached garage. The appellants do not dispute that these building operations constitute development.

6. The appellants confirm that several changes have been made to the siting and external appearance of the building operations carried out and that they therefore deviate from the plans approved in relation to APP/N1730/W/21/3286799 allowed on 26 January 2023 (2023 PP). Condition 2 imposed on the 2023 PP required the development to be carried out in accordance with the approved plans, which it lists.
7. Several other conditions imposed on the 2023 PP required further details to be submitted to the Council for subsequent approval. There is no dispute that condition precedents were complied with and that the 2023 PP was lawfully implemented.
8. The substance of the 2023 PP, including the approved plans specified within condition 2, cannot be deviated from without a further grant of planning permission. The appellants have provided details of the applications that followed the grant of the 2023 PP. These do not include a grant of planning permission for an alternative scheme on the land. Nor do they include any approval of non-material amendments to the approved scheme.
9. The deviations from the plans approved under the 2023 PP include, amongst other things: changing the open sided carport to a garage, the garage being erected in a different location to the carport's approved position, extending the first floor accommodation to match the footprint of the ground floor accommodation, and changes to the roof pitch. Whether these deviations from the approved plans are of themselves acceptable in planning terms is not a matter before me for consideration. Nor are they of such a minor nature as to be considered de minimus.
10. The appellants seek to rely on the deemed planning permission granted by virtue of Class A and Class E, Part 1 of Schedule 2 and Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. However, the permitted developments set out in Part 1 apply to single dwellinghouses. The development carried out on the land would become a single dwellinghouse once it was substantially complete and had been occupied, at which time it would benefit from permitted development rights set out in Part 1 of Schedule 2. The deviations from the approved plans have taken place throughout the build process, therefore before the single dwellinghouse and its permitted development rights existed.
11. The deviations from the approved plans required the benefit of planning permission and that planning permission, whether deemed or express, has not been shown to have been granted. The building operations carried out therefore constitute a breach of planning control.
12. The appellants' appeal statement confirms that all relevant conditions were discharged via applications 21/01893/CON and 23/00399/CON before building work commenced. Dates of 22 March 2023 and 30 March 2023, respectively, are given for those applications, although it is not clear whether these dates are submission or approval dates. It would however not be unreasonable to conclude that the development was not commenced before 22 March 2023 based on the evidence provided.

13. The LDC application was made on 6 August 2023. For the time for enforcement action to have expired, the development would have had to have been substantially completed on or before 6 August 2019, this is the material date. The date the development commenced is after the material date and therefore the time for taking enforcement action had not expired.

Other Matters

14. I acknowledge that the relocation and variations to the carport to provide a garage were shown on the approved landscaping scheme plans. However, a discharge of condition application is made under article 27 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). It is not an application for planning permission. While the submitted information may have been approved to discharge the relevant condition, that approval cannot change the substance of the 2023 PP, namely that the development must be carried out in accordance with the approved plans.
15. From the information available it is unclear whether the Council told the appellants that carrying out the approved landscaping scheme would cause a breach of condition 2 of the 2023 PP, or that a further planning permission would be required if the approved landscaping scheme were to be implemented. However, I am not aware of any statutory or regulatory requirement for the Council to do so.
16. After the deviations from the 2023 PP were identified, it is of note that the enforcement officer advised the appellants to make a non-material amendment application. It would however be unusual for additional built development, namely the extension of the first floor accommodation, or the relocation of outbuildings to be accepted as being a non-material amendment. The more appropriate course of action would have been to make an application under s73A of the 1990 Act, which applies to development carried out without complying with some condition to which planning permission was granted.
17. Development has been carried out without the benefit of the required planning permission. Unfortunately, ignorance of the planning system and the absence of appropriate advice from the Council does not change that fact.
18. Matters relating to the adjacent development are not before me for consideration and have no bearing on the outcome of this appeal.

Conclusion

19. For the reasons given above I conclude that, had the Council refused to grant a certificate of lawful development in respect of modifications made to original plans for new three bedroom house with carport using permitted development rights granted at appeal (APP/N1730/W/21/3286799) and in accordance with approved plan 21/01893/CON that refusal would have been well founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act.

M Madge

INSPECTOR