



Appeal Decision

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08th September 2026

Appeal Ref: APP/T2215/X/24/3352540

108 Mill Road, Hawley, Kent DA2 7RT

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr J Neale against the decision of Dartford Borough Council.
 - The application ref DA/24/00499/LDC, dated 1 May 2024, was refused by notice dated 16 September 2024.
 - The application was made under section 192(1)(b) of the Act.
 - The development for which a certificate of lawful use or development is sought is the demolition of existing garage and construction of a new single storey detached annexe.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have not undertaken a site visit as I am able to determine the application on the written submissions in this particular case.

Main Issue

3. The main issue is whether the Council's decision to refuse to issue an LDC was well-founded, with particular regard to whether the proposed annexe would constitute a building required for a purpose incidental to the enjoyment of the existing dwellinghouse as such.

Reasons

4. There is no dispute that the demolition of an existing garage and the construction of a new single storey detached annexe would comprise development requiring planning permission. It is the appellant's case that the development would benefit from planning permission granted by Article 3(1) and Class E of Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
5. Planning permission is granted under the above provisions of the GPDO for the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such.
6. The proposed annexe would house the appellant's elderly mother, who has limited mobility and requires care and assistance. The appellant and his family live in the existing dwellinghouse at the site, and they would provide the necessary care and assistance, living together as a single household with shared services.
7. The proposed plans show that the annexe would have a combined kitchen/living space, a utility room, a shower room, and a bedroom, with windows and doors facing into the rear garden of the existing dwellinghouse, and an access ramp

leading to the entrance. Annotations on the plans indicate that the kitchen would have a sink, dishwasher and extractor fan, while the utility room would have a washing machine and tumble dryer. Access to the annexe would be from the modestly sized rear garden to the existing dwellinghouse, which would be shared by occupants of both buildings. No separate postal address would be created.

8. The occupant of the annexe would be reliant on care from occupants of the existing dwellinghouse and the annexe would not be used as a separate independent dwellinghouse. However, the provision of facilities for cooking, washing and sleeping would comprise primary living accommodation rather than a purpose incidental to the enjoyment of the existing dwellinghouse. This is supported by the Government's Technical Guidance¹, which states that a purpose incidental to a dwellinghouse would not include *'normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen'*.
9. I have been referred to appeal decisions by another Inspector which were determined under section 78 of the Act. In both cases planning permission was granted for annexes to be occupied by elderly relatives of the occupants of the existing dwellinghouses, where those annexes were found to be for purposes ancillary to the lawful residential use of the land, subject to conditions. That is very different to the circumstances in this appeal where the appellant contends that the proposed development would be lawful, rather than that planning permission should be granted. I do not therefore find that these other appeal decisions show why the proposed annexe would fall within the description of development at Class E of Part 1, Schedule 2 of the GPDO.
10. Whether occupation of the proposed annexe by a dependent relative would amount to a material change of use is a separate matter which does not fall to be determined in this appeal. In this specific case, the proposed annexe would serve a residential purpose which would not be merely incidental to the enjoyment of the existing dwellinghouse.
11. I therefore find that the proposed annexe would not be a building required for a purpose incidental to the enjoyment of the dwellinghouse as such. Consequently, the proposed development would not benefit from planning permission granted by the GPDO. As no evidence has been provided to demonstrate that the proposal would otherwise be lawful, I am not satisfied that an LDC should be issued for the proposed development.

Conclusion

12. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the proposed demolition of an existing garage and construction of a new single storey detached annexe was well-founded. The appeal should fail, and I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

L Douglas

INSPECTOR

¹ Permitted development rights for householders (2019)