

Recommendation Report for Lawful Development Certificate for an Existing Use or Operation or Activity including those in breach of a planning condition.

REF NO: AB/127/18/CLE

LOCATION: 76 Ford Road
Arundel

PROPOSAL: Application for a Lawful Development Certificate for an existing use - change of use of garage to a habitable room

DESCRIPTION OF APPLICATION

An application for a Lawful Development Certificate for use of an attached garage as residential accommodation.

DESCRIPTION OF SITE AND SURROUNDINGS

A semi detached property on a corner plot on the outskirts of Arundel in a residential area.

RELEVANT SITE HISTORY

AB/64/08/	Rear wc extension	ApproveConditionally 20-06-2008
AB/23/79	Proposed single storey garage	ApproveConditionally 21-03-1979

AB/23/79 - The original garage subject of this application was granted planning permission. No conditions were applied restricting permitted development rights

AB/64/08/ - Shows the garage was in use for residential accommodation on 20th June 2008 when the application was approved.

REPRESENTATIONS

Representations received:

Arundel Town Council
No objection.

Comments on Representations received:

Noted.

CONSULTATIONS

Consultations responses received:

None.

Comments on Consultation responses:

Noted.

LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

In this instance the proposed works will be assessed against s55(2) of the Town and Country Planning Act (as amended).

CONCLUSIONS

The application presented a the following evidence;
Floor layouts contained within an Estate Agents brochure dated May 2006.
Copy of a planning permission AB/64/08 at the dwelling house with approved drawing no. 08/047/PL01

Both of these documents show the garage to have be incapable of use as a garage due to the garage door having been removed and show it in residential use definitively in the case of the Estate Agents brochure and on the balance of probabilities in the case of the approved drawing from the planning permission.

In addition, the converted garage appeared well established in terms of weathered in materials and mature garden beds abutting its elevations.

The proposed garage was granted planning permission in AB/23/79. No conditions were applied which would restrict permitted development rights of the garage.

The property subject of this application is not a Listed building nor is it located within a Conservation Area.

A residential garage is a C3 use and no change of use occurs when it is converted to use as a habitable room.

In accordance with s55 Article 2(a) of the Town and Country Planning 1990 the following are not taken to involve development:

the carrying out for the maintenance, improvement or other alteration of any building of works which:

- (i) - affect only the interior of the building, or
- (ii) - do not materially affect the external appearance of the building,

The alterations to form living accommodation within the garage are not considered development. The change of the garage door and addition of a side window are considered to materially affect the external appearance of the building.

The matter then falls to be assessed under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Class A which permits the enlargement, improvement or other alteration of a dwellinghouse subject to class A.1, A.2 and A.3. As no

increase in floorspace forms part of the development for which a Certificate of Lawful Development is sought, the only relevant part of the class is A.3 - Conditions, which requires that '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 '.

The materials of construction of the external alterations of the garage are bricks to match the existing dwellinghouse and garage & the white UPVC windows match the windows of the main dwellinghouse are considered to be similar materials to the original dwellinghouse and approved garage.

The evidence provided and publicly available was considered sufficiently conclusive not to require legal advice on the matter.

In conclusion the evidence submitted and assessment of other evidence provides proof that the existing use of the single storey flat roofed attached garage on the north east side of 76 Ford Road Arundel does not require planning permission because the internal alterations are not considered to be development under s55(2) of the Town and Country Planning Act 1990 and the external alterations are considered to be permitted development under Class A of the Town and Country Planning Act 1990 as amended.

The Lawful Development Certificate is recommended for approval.

RECOMMENDATION

PP NOT REQUIRED

The use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate, was lawful within the meaning of section 191 of the Town & Country Planning Act 1990 by reason that at the date specified above, the use and development of the attached garage as a habitable room does not require planning permission because the internal alterations are not considered to be development under s55(2) of the Town and Country Planning Act 1990 and the external alterations are considered to be permitted development under Class A of the Town and Country Planning (General Permitted Development) Order 1990 as amended.

FIRST SCHEDULE

Continuance of the existing use of the garage as a habitable room (bedroom and dressing room/ensuite) as shown on dwg.no 08/047/PL01 dated 03/08.

SECOND SCHEDULE

76 Ford Road, Arundel, BN18 9EX

EXTENT OF USE

Use of the single storey flat roofed attached garage on the north east side of 76 Ford Road Arundel as a habitable room for C3 residential purposes.



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