

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

REF NO: AW/29/26/CLE

LOCATION: 45 Craigweil Lane
Aldwick
PO21 4AN

PROPOSAL: Lawful development certificate for the existing conversion of the rear section of the integral garage to form a utility room.

DESCRIPTION OF APPLICATION

The application relates to retrospective worked for a garage conversion and alterations to fenestration.

SITE AND SURROUNDINGS

The site includes a detached, two storey dwelling located at 45 Craigweil Lane, Aldwick.

RELEVANT SITE HISTORY

REPRESENTATIONS

Representations Received:

Aldwick Parish Council

No objection.

No response received from nearby occupiers.

CONSULTATIONS

Consultations Responses Received:

LEGISLATIVE BACKGROUND

Section 191 of the Act states:

(2) For the purposes of this Act, uses and operations are lawful at any time-

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

Paragraph 006 (Reference ID: 17c-006-20140306) of the National Planning Practice Guidance (NPPG) states:

"The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counterevidence.

Section 191(4) 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 of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

The internal alterations are assessed against Section 55 of the Town and Country Planning Act 1990.

The alterations to fenestration are assessed under Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Provided the works satisfy the relevant criteria, and that no restrictive conditions to development have been imposed on the site, the works will have constituted Permitted Development and would not have required express planning permission. If the works fail to accord with the criteria then works may not be lawful.

CONCLUSION

The alterations to fenestration, which includes three new windows and a door, is considered under Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.

Class A

The enlargement, improvement or other alteration of a dwellinghouse.

Development not permitted

A.1 Development is not permitted by Class A if -

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

- (b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
- (c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;
- (d) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;
- (e) the enlarged part of the dwellinghouse would extend beyond a wall which;
 - (i) forms the principal elevation of the original dwellinghouse; or
 - (ii) fronts a highway and forms a side elevation of the original dwellinghouse;
- (f) subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and;
 - (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or
 - (ii) exceed 4 metres in height;
- (g) for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and;
 - (i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or
 - (ii) exceed 4 metres in height;
- (h) the enlarged part of the dwellinghouse would have more than a single storey and;
 - (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or
 - (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse;
- (i) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;
- (j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would;
 - (i) exceed 4 metres in height,
 - (ii) have more than a single storey, or
 - (iii) have a width greater than half the width of the original dwellinghouse;
- (ja) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j);
- (k) it would consist of or include;
 - (i) the construction or provision of a verandah, balcony or raised platform,
 - (ii) the installation, alteration or replacement of a microwave antenna,
 - (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
 - (iv) an alteration to any part of the roof of the dwellinghouse ,or
- (l) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).

OFFICERS COMMENTS

The alterations to fenestration comply with the relevant sections above and can be considered Permitted Development.

The internal alterations will be assessed against Section 55 of the Town and Country Planning Act (1990):

1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in,

on, over or under land, or the making of any material change in the use of any buildings or other land.

(1A) For the purposes of this Act " building operations " includes:

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.

(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land:

- (a) 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,

OFFICERS COMMENTS

The property known as 45 Craigweil Lane is a detached property, and is not listed or within a conservation area. The alterations to fenestration are of materials that match the existing.

Examination of site history has revealed an open plan condition, irrelevant to this proposal.

The internal works do not constitute development in accordance with Section 55 (2(a)(i) of the Town and Country Planning Act (1990), and therefore do not require express planning permission from this authority. The alterations to fenestrations comply with the limitations of permitted development and do not require the submission of a full application.

RECOMMENDATION

APPROVE

The development 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 way of compliance with Section 55 of the Town and Country Planning Act 1990 and Schedule 2, Part 1, Class A of the General Permitted Development Order 2015 (as amended).

FIRST SCHEDULE

The existing conversion of the integral garage to form a utility room and alterations to fenestration, as shown on the following plans:

- Location Plan
- Existing and and Pre-Existing Floor Plans and Existing Elevations PL001

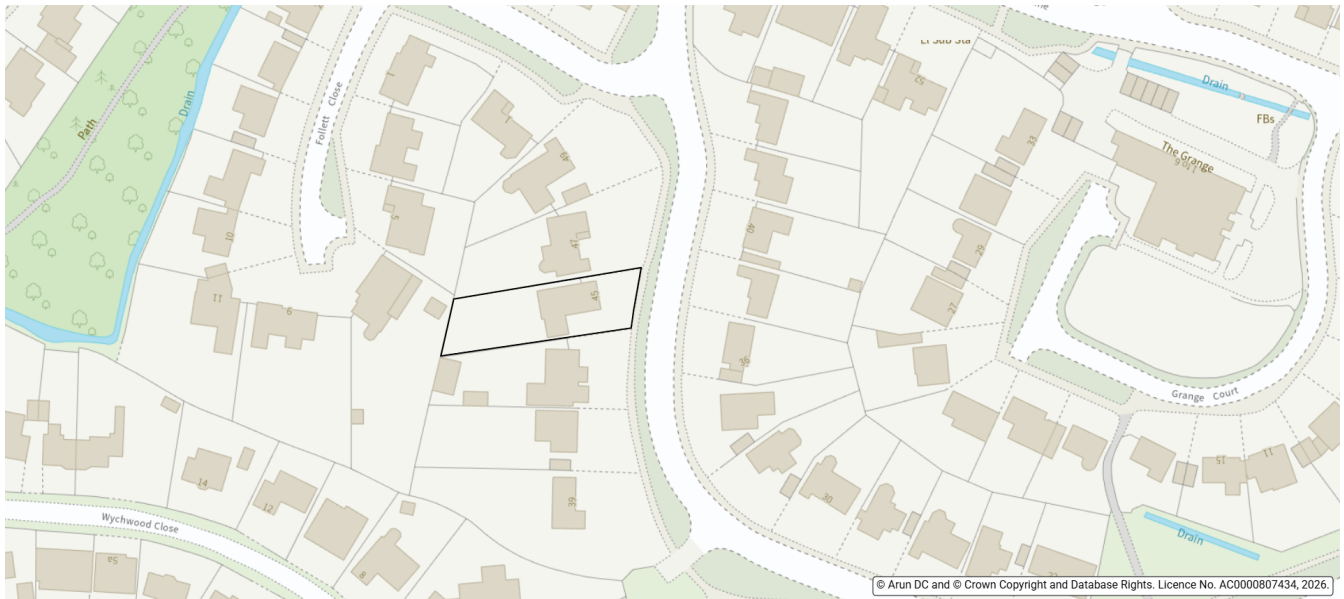
SECOND SCHEDULE

45 Craigweil Lane, Aldwick, PO21 4AN

EXTENT OF USE

Conversion of the integral garage to form a utility room and alterations to fenestration.

AW/29/26/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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