

LDC PLANNING STATEMENT

30 NELSON ROAD, BOGNOR REGIS



A WHALEBACK
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West Wittering
Chichester
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Site	30 Nelson Road, Bognor Regis, PO21 2RZ
Project	Lawful Development Certificate (Proposed) s.192
Applicant	Mr Baldry
Our Ref	W 1911
Date	January 2019
Revision	-

The Scope of Lawful Development Certificates

1. Under section 192 of the Town and Country Planning Act 1990 (as amended) (‘the Act’) an application may be made to the local planning authority to confirm that a proposed building is lawful.
2. The General Permitted Development Order 2015 (as amended) (‘the GPDO’) sets out at Schedule 2, Part 1 the ‘permitted development rights’ for development within the curtilage of a dwellinghouse.
3. The onus of proof is on the applicant for a lawful development certificate (LDC) to establish that the proposed operational development (and use) would be lawful on the date of the application.
4. The standard of proof is ‘on the balance of probability’ (a lesser requirement than ‘beyond a reasonable doubt’). The planning merits of the development are irrelevant to an application under section 192 of the Act. The consideration of the application rests entirely on the facts of the case. The online Planning Practice Guidance (Paragraph: 009 Reference ID: 17c-009-20140306) confirms that

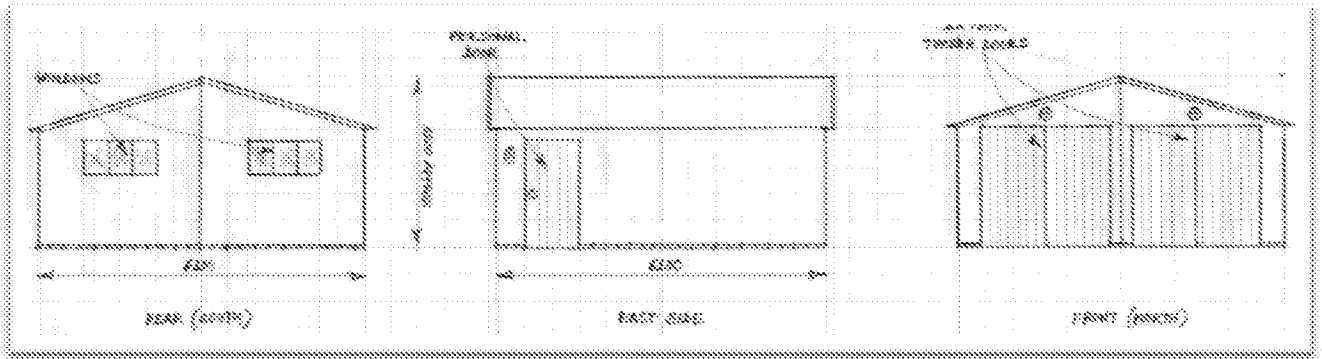
A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

In determining an application for a prospective development under section 192 a local planning authority needs to ask ‘if this’ proposed operation had commenced, on the application date, would it have been lawful for planning purposes?’

5. The online Planning Practice Guidance (Paragraph: 006 Reference ID: 17c-006-20140306) confirms that the applicant’s evidence alone should be sufficient to justify the grant of a certificate ‘on the balance of probability’, so long as it is sufficiently precise and unambiguous. The applicant’s evidence does not have to be corroborated by ‘independent’ evidence. If the LPA has no evidence to contradict or otherwise make the applicant’s version of events less than probable there can be no grounds to refuse to grant a certificate.
6. The Planning Inspectorate’s Procedural Guide ‘Certificate of lawful use or development appeals (dated March 2016) (‘the Inspectorate Guidance’) states that when refusing an application for an LDC, the local planning authority should consider carefully whether it has a sufficiently strong case for doing so, on the basis of the material before it (paragraph 1.3.1). It goes on to advise that it is best practice for the local planning authority to have constructive discussions with applicants for an LDC and, if it has any concerns, give the applicant the opportunity to amend the application before it is decided. This should help to avoid the need to appeal.

Grounds for Application

7. A lawful development certificate is sought for the erection of a garage incidental to the enjoyment of the dwellinghouse under Class E of the General Permitted Development Order 2015 (as amended).
8. As shown in the submitted drawings, the outbuilding is proposed to the northwest of the main dwelling. It is dual-pitched and single storey.



9. The garage building is required by the applicant for the sheltered storage of two cars. The overall size of the garage is the minimum size possible for this use. The existing historic garage on site is too small to accommodate modern cars and is currently used only for the storage of tools and car parts etc.

Compliance with the GPDO

10. Schedule 2, Part 1, Class E of the GPDO sets out that the provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse is permitted development, subject to the prescribed limitations. These limitations are addressed in turn below.

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

¿ Not applicable.

(b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

¿ Complies: the garage would not exceed 50% of the total area of the curtilage.

(c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;

¿ Complies. Government Technical Guidance on permitted development rights for householders states the following in regards to the _principal elevation: :

_In most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode

for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house.

There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on a corner plot, a view will need to be taken as to which of these forms the principal elevation.:

The southern elevation of the house facing Nelson Road is the 'principal elevation' for planning purposes. Evidence of this includes the front door, letterbox, entrance gate and street address (Nelson Road:) being located on this side. The original drawings relating to the construction of the house also identify the southern elevation as the front, as extracted below:



Technical Guidance page 43 establishes the methodology for assessing Class E outbuildings in terms of the Principal Elevation. The proposed garage complies with this methodology, being entirely behind the line formed by the Principal Elevation fronting Nelson Road.

(d) the building would have more than a single storey;

¿ Complies; single storey.

(e) the height of the building, enclosure or container would exceed`

(i) 4 metres in the case of a building with a dual-pitched roof,

(ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or

(iii) 3 metres in any other case;

- ¿ Complies; the garage is positioned 2.5m of the western boundary with Crescenta Walk, has a dual-pitched roof and a total height of 3.2m with an eaves height of 2.1m.

(f) the height of the eaves of the building would exceed 2.5 metres;

- ¿ Complies.

(g) the building enclosure, pool or container would be situated within the curtilage of a listed building;

- ¿ Not applicable.

(h) it would include the construction or provision of a verandah, balcony or raised platform;

- ¿ Not applicable.

(i) it relates to a dwelling or a microwave antenna; or

- ¿ Not applicable.

(j) the capacity of the container would exceed 3,500 litres.

- ¿ Not applicable.

E.2 In the case of any land within the curtilage of the dwellinghouse which is within (a) an area of outstanding natural beauty; (b) the Broads; (c) a National Park; or (d) a World Heritage Site, development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

- ¿ Not applicable.

E.3 In the case of any land within the curtilage of the dwellinghouse which is article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.

- ¿ Not applicable.

E.4 For the purposes of Class E, _purpose incidental to the enjoyment of the dwellinghouse as such: includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

- ¿ Complies; use as a garage is well-established as an _incidental: use.

11. It is therefore submitted that the proposed garage is within the parameters set by the GPDO for Class E outbuildings and is therefore permitted development. Should the local planning authority have any queries about the submitted information, it is invited to consult with the applicant via their planning agent who will be pleased to provide further information.

W H A L E B A C K L T D