

Development Management Delegated Decision Report

B/20/0441



SUMMARY OF APPLICATION				
Application Reference	B/20/0441			
Application Type	Certificate of Lawfulness (proposed use)			
Proposal	Application for a Lawful Development Certificate to confirm that the proposed extension to the existing garage is lawful			
Location	Ancaster Lodge, 10 Meeres Lane, Kirton, Boston, PE20 1PS			
Applicant	Mr John Clarke			
Agent	Mr David Bradley			
Received Date:	06-Nov-2020	Consultation Expiry Date:	08-Dec-2020	
Valid Date:	16-Nov-2020	Statutory Expiry Date:	11-Jan-2021	
Date of Site Visit:	18-Nov-2020	Extension of Time Date:		
Objections received?	No			
5 day notification record: Not applicable				
	Councillors notified	Date	Response received – date	Ok to continue
Recommendation	ISSUE Lawful Development Certificate			
Report by:	Grant Fixter			
Date:	21/12/2020			



OFFICER REPORT

SITE AND SURROUNDINGS:

The application site is located off Meeres Lane, Kirton and comprises the dwelling Ancaster Lodge with its associated garage and curtilage. There is frontage development on both sides of the road, all of which have long set back gardens. To the rear of Ancaster Lodge is a small garage which is the main subject of this application. The garage measures 2.5m to the eaves and 3.7m to the ridge and comprises white painted brick external walls and grey corrugated sheet roofing.

DETAILS OF PROPOSAL:

This application seeks a Lawful Development Certificate to confirm that the proposed extension to the existing garage is lawful.

The initial submission showed the proposed extension to comprise a pitched roof and measure 2.5m to the eaves and 3.5m to the ridge. Upon a quick review of the Town and Country Planning (General Permitted Development) (England) Order 2015, the officer noticed the works would not fall under permitted development and would require planning permission.

This was raised with the agent and following discussions between them and the applicant, a revised scheme was subsequently submitted which comprised a flat roof and did not exceed 2.5m in height, with an external footprint of 4m x 12m.

Full details of the proposal are shown on the following plan:

- 2056/1C – Location Plan, Existing and Proposed Block Plan, Existing and Proposed Elevations.

RELEVANT HISTORY:

- B/00/0378 - Construction of Conservatory extension – Approved on 13/09/2000.

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

The Town and Country Planning Act (1990)

- Section 192 – Certificate of lawfulness of proposed use or development.

The Town and Country Planning (General Permitted Development) (England) Order 2015

- Part 1 (Development within the curtilage of a dwellinghouse), Class E (buildings etc incidental to the enjoyment of a dwellinghouse).

CONSULTATION RESPONSES:

Kirton Parish Council

Have no objections.

THIRD PARTY REPRESENTATIONS RECEIVED:

No third party representation have been received.

EVALUATION:

An application for a Lawful Development Certificate for a proposed use (S.192) is not a planning application in the normal sense in that the planning merits and assessment against the Development Plan are not relevant.

Basically, the question to be asked is whether the development is lawful without needing any further permission. A development is 'lawful' if no enforcement action may be taken by the authority. The matters to be determined are solely matters of evidence and law.

The proposed works comprise an extension to the existing garage. The extension is approximately 30cm away from the residential curtilage and has a footprint of 4m x 12m, measuring 2.5m in height and has a flat roof.

The relevant legislation in respect of this application is Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015. The legislation states development is not permitted where:

- “(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;”

As previously stated, the original submission was over 2.5m in height and within 2 metres of the boundary of the curtilage of the dwellinghouse, therefore, such a proposal would have required planning permission.

The scheme was amended accordingly, with the height no longer exceeding 2.5m. From reviewing the submitted plan against the identified legislation, it is clear the proposal is permitted development and does not require planning permission.

CONCLUSION:

According to the submitted details, the proposed works will be no greater than 2.5m in height. The Council is, therefore, satisfied that no planning application is required for such a scheme and under the provisions of S.192 of the Planning Act 1990, the proposed works are considered lawful for planning purposes.

RECOMMENDATION:

It is recommended a Lawful Development Certificate be issued.

Based upon the information submitted in the application form and plans;

- 2056/1C – Location Plan, Existing and Proposed Block Plan, Existing and Proposed Elevations.

the Council is satisfied that the proposed extension to the existing garage does not require a planning application and under the provisions of S.192 of the Planning Act 1990, the proposed works are considered lawful for planning purposes.

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE
<u>STATEMENT OF PROACTIVE WORKING:</u> In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2019 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.