

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H23-0429-21 **Applicant:** Mr A Hubbard
Proposal: Conversion of garage into self contained annexe
Location: High View 15 Stockwell Gate West Whaplode
Terminal Date: 17th June 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

N/A

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

S192 LAWFUL USE CERTIFICATE application for the conversion of the detached garage into a self-contained annexe.

SITE DESCRIPTION

The property is a detached two storey dwelling located on Stockwell Gate West in Whaplode. The site is at the edge of the settlement boundary and abuts the open countryside to the south and west. There is an outbuilding located within the site along the western boundary. The site has a shared private access off Stockwell Gate West leading to a large driveway. The site is enclosed by mature trees/planting along the southern and western boundaries and gates/wall on the northern boundary.

The application is supported by the following:

1. Planning statement
2. Site location plan, existing site plan, existing plans , proposed block plan and proposed plans.

Within the planning statement the applicant states:

With reference to section 55 of the T&C Planning Act, the client does not need to apply for planning permission as there is no change of use. The use of the planning unit including the garage is wholly

within Class C3. If the use of the outbuilding/garage is later changed from incidental (garage) to primary or ancillary residential accommodation (e.g. as additional bedroom accommodation) the use of the planning unit is still wholly within Class C3. Therefore, by virtue of section 55(2)(f), there has been no change of use requiring planning permission. The external changes to the building are covered by permitted development and do not materially affect the external appearance of the building.

Uttlesford DC v SoSE and White, which considered a garage attached to a dwelling that had been converted to a 'granny annexe', is also of interest. An inspector had determined that where a domestic garage within a residential curtilage was used for living accommodation in connection with the dwelling, no material change of use had occurred. The court agreed, ruling that the fact that the elderly occupier of the annexe had living facilities that enabled her to live independently from the rest of the family did not amount to the creation of a separate planning unit that required permission.

The use of the converted garage becoming an annexe is closely linked to the house and will remain as part of the existing dwellinghouse. There is no material change to the external appearance of the building. There are changes to the exterior of the building but these do not affect the overall appearance and are changes covered by PD rights. It will be used by a family member who needs caring for but also requires a degree of independence. There is no change of use - the unit is still C3. There is no creation of a separate dwelling so there is no development. Case law has established that annexe accommodation can contain all facilities required for day to day living.

History

H23-0044-21 - Erection of detached timber framed garage (retrospective) - Pending consideration

Consultation Responses

SHDC Senior Planning Lawyer

The case of *Uttlesford DC v SSE and White* has been accurately represented. I agree that planning permission is not required and a LDC should be issued.

Planning Considerations

Given the opinion of the SHDC Senior Planning Lawyer, who has considered the submission, it is recommended that this certificate can be granted.

The proposed use would be incidental to the residential use of the planning unit and would not constitute operational development for which a grant of planning permission would be required.

Conclusion

On the basis of all of the evidence now before the Council, it is the view of the Senior Planning Lawyer and the case officer that, on the balance of probabilities, and given the evidence presented in the form of appeal decisions and other documentation, that the proposed conversion of the garage into a self-contained annexe for residential use as an ancillary use to that of the main house would be lawful.

The proposed use would be incidental to the residential use of the planning unit and would not constitute operational development or a material change of use for which a grant of planning permission would be required.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share

a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

RECOMMENDATION

The certificate of lawfulness can be issued under delegated powers.