

KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) Section 191/192

DELEGATED DECISION FOR APPLICATION FOR CERTIFICATE OF LAWFUL DEVELOPMENT

Reference no.: 2024/CL/92761/W

Site: 20, Hall Close, Meltham, Holmfirth, HD9 4EL

Description: Certificate of lawfulness for existing garage
conversion

Case Officer: Chris Cockroft

Decision Reference: EXISTING OPERATIONS/USE GRANTED

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Kevin Walton

AUTHORISED OFFICER

Date 21-Nov-2024

APPLICATION FOR CERTIFICATE OF LAWFUL USE (Existing)

SITE: 20, Hall Close, Meltham, Holmfirth, HD9 4EL

APPLICATION: 2024/92761

Site Description

20, Hall Close, Meltham, Holmfirth, HD9 4EL is a two-storey, detached property, constructed from stone. The property benefits from a small garden to the front of the property, with a garden, stone-built outbuilding/garage and drive, to the rear.

1. Application

1.1 Permission is sought for a Certificate of Lawfulness for the existing use of the outbuilding as living accommodation and storage. The original detached double garage has been converted to provide ancillary living accommodation (home office) to one half and storage to the other half. The double garage door has been removed and replaced with stone walling to match and two sets of double doors (solid doors to storage space and half glazed to living accommodation). The conversion was carried out in 2021. The proposal comprises internal alterations to the flooring, walls and lighting.

2. Lawful Use Certificates

2.1 Section 191(1) (a) of the Town and Country Planning Act 1990 (“the Act”) permits any person who wishes to ascertain whether any proposed use of buildings or other land is lawful to make an application to the Local Planning Authority.

2.1 Section 191(2) of the Act provides that uses are lawful if the Local Planning Authority is 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.

3. The Relevant Test

3.1 The burden of proof lies firmly with the Applicant and the relevant test for whether the use can be deemed lawful is the “balance of probability”.

3.2 The Applicant’s evidence does not need to be corroborated by “independent” evidence. If the Local Planning Authority have no evidence of their own, or from others, to contradict or otherwise make the Applicant’s version of events less than probable, there is no good reason to refuse the Application, provided the Applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

4. Limitations

4.1 A LDC must contain precise details of what use, operations, or failure to comply with a condition are found to be lawful, why and when. These details will not be legally equivalent to a planning condition or limitation. They will be a point of reference specifying what was lawful at a particular date, against which any subsequent change may be assessed. If the use subsequently intensifies or changes in some way to the point where a “material” change of use takes place, a Local Planning Authority may then take enforcement action against the subsequent breach of planning control.

5. Relevant Information

5.1 History of negotiations/amendments received

No negotiations have taken place and no amended plans received.

5.2 Relevant Planning History

No relevant planning history.

5.3 Consultation Responses

None required.

6. Evidence submitted in support of the Application

6.1 The applicant has submitted a completed application form, with location plan and photos of the construction progression of the living accommodation (home office) and storage room.

7. Evidence submitted against the Application

7.1 None

8. Site Visit

8.1 None

9. Assessment of the Evidence

9.1 The application relates to a garage to the rear of 20, Hall Close, Meltham, Holmfirth, HD9 4EL and conversion to ancillary home office and storage room.

9.2 The outbuilding is used for home office and storage. The space and layout as shown on the submitted photographs demonstrate the room is not capable of being occupied independently of 20, Hall Close and it is considered

the use as a home office does not introduce any primary living areas. Under these circumstances it is considered the use of the outbuilding for home office and storage for the occupants of the dwellinghouse is incidental to the enjoyment of the dwelling house and does not result in a material change of use of the building and therefore is not development as defined by Section 55 of the Town and Country Planning Act 1990 and as exempted by virtue of section 55(2)(d).

The operations undertaken to remove the double garage door and replace with stone walling to match and two sets of double doors (solid doors to storage space and half glazed to living accommodation) would have amounted to development although permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) would have been available at the time the works were undertaken. These would have granted a general planning permission for the alteration to the garage door.

10.0 Conclusion.

The use of the garage as a home office and storage room, for purposes incidental to the enjoyment of the dwellinghouse, at 20, Hall Close, Meltham, Holmfirth, HD9 4EL, has been assessed against the relevant legislation and the existing use does not constitute development as defined in Section 55 of the Town and Country Planning Act 1990. The alterations to remove the double garage door and replace with stone walling to match and two sets of double doors (solid doors to storage space and half glazed to living accommodation) would, at the time carried out, have been considered to benefit from a general planning permission under the provisions the Town and Country Planning (General Permitted Development) Order 1995.

Recommendation: Grant Certificate

Decision Authorisation - Delegated Powers**Application Number: 2024/91687****Officer Recommendation: Grant Certificate**

The use of the garage as a home office and storage room, for purposes incidental to the enjoyment of the dwellinghouse, at 20, Hall Close, Meltham, Holmfirth, HD9 4EL, has been assessed against the relevant legislation and the existing use does not constitute development as defined in Section 55 of the Town and Country Planning Act 1990. The alterations to remove the double garage door and replace with stone walling to match and two sets of double doors (solid doors to storage space and half glazed to living accommodation) would, at the time carried out, have been considered to benefit from a general planning permission under the provisions the Town and Country Planning (General Permitted Development)(England) Order 2015(as amended).

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application	Application Form		26/09/2024
Location Plan	24085D-01-P01-LDC Application Drawing		26/09/2024
Application Drawing	24085D-01-P01-LDC Application Drawing		26/09/2024

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

Report Dated: 20/11/2024