
Application: 2023/0833

Type: Lawful Development Certificate

Applicant: Mr K Cheadle

Site Address: 63 Rosefinch Road, Goldthorpe, Rotherham, S63 9FS

Proposal: Certificate of Lawfulness for proposed development of conversion of the existing domestic garage to form a home office space, replacing the existing garage door with a new window and the creation of a new door way on the side elevation

Location & Property Description

The dwelling is recently constructed red brick and white rendered detached house on a contemporary housing estate towards the eastern edge of both the village of Goldthorpe and the borough boundary. The small offshoot section of the street the dwelling is situated on has three dwellings, including the applicant's on one side of the road and only one larger dwelling and detached garage block on the opposite side.

Currently the dwelling has three bedrooms on the first floor, whilst the ground floor features a lounge, kitchen-diner, and integrated garage, although there is no internal access to the garage. The garage currently features wooden or mock-wooden traditional style garage doors in a black gloss paint and features two higher level narrow crosshatched windows in white. The remaining front elevation comprises of two large, and one smaller centre window on the first floor, whilst the ground floor features a bay window, front door with tiled canopy and a small, slim window between the front door and the garage. All windows are white UPVC, and the larger windows are split into two or three sections.

Proposed Development

The proposal is to convert the existing garage to an office space for working from, it has been specifically indicated that this would be for the use of the occupant and not used as a commercial premise. The garage door is proposed to be replaced with a new window, and a new door to the side of the dwelling would be installed. The garage is proposed to be insulated and appropriate building control approval sought,

The applicant has submitted the following plan in support of their LDC application:

Drawing 23/014-01 (Existing Plans & Elevations), PP-12437322v1 (Location Plan), 23/014-02 REV A (Proposed plans & Elevations)

All works relate to the dwelling at 63 Rosefinch Road, Goldthorpe, Rotherham, S63 9FS

Planning History:

Relevant planning applications include:

2019/1274: Residential development of 116 dwellings and associated works (Reserved Matters for approval of details relating to layout, scale, design, external appearance and landscaping in relation to application 2018/0103). (Amended Plan) - Approved with conditions 5th January 2021

2018/0103: Residential development (Outline) (All Matters Reserved apart from access) – Approved with conditions 20/04/2018

Planning Context

Section 192(1) of The Town and Country Planning Act 1990 provides that if any person wishes to ascertain whether any operations proposed to be carried out in, on, over or under land, would be lawful, may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question. Section 192(4) then provides that if, on an application under this section, the local planning authority are 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, they shall issue a certificate to that effect; and in any other case shall refuse the application.

Where planning conditions of a previous permission, included those attached to a whole estate do not restrict the conversion of a garage into living space, such a conversion is generally considered as permitted development. Section 55 of The Town and Country Planning Act 1990 (as amended) (TCPA 1990) considers works as none-development if the proposed development “do not materially affect the external appearance of the building” and are “for any purpose incidental to the enjoyment of the dwellinghouse”. Additional legislation set out in Class A, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) further sets out guidance for works carried out under permitted development rights, which would cover the installation of a new door and window. For all proposed works, paragraph A3 a. “the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;” would be relevant and ensure that both Class A of the GPDO and the no development aspect of Section 55 are equally met.

Section 55 Section 55 of The Town and Country Planning Act 1990 (as amended)

55 Meaning of “development” and “new development”.

(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,

and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

(b) the carrying out on land within the boundaries of a road by a . . . highway authority of any works required for the maintenance or improvement of the road but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment;

(c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;

(d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;

(e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.

Class A, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015

Permitted Development

A. The enlargement, improvement or other alteration of a dwellinghouse.

Development is not permitted if:

A.1

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;
- 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 not 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 house by more than 3 metres, or
 - ii. Be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the 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; or
- 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 [F8; or]

- I. the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).

A.3 Development is permitted by Class A subject to the following conditions—

- a. the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
- b. any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be —
 - (i) obscure-glazed, and
 - (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and
- c. where the enlarged part of the dwellinghouse has more than a single storey, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

Consultee

Legal – Advised the proposal appears to meet the criteria of Section 55(d) of the TCPA 1990 whilst the works would be considered as Class A of the GPDO 2015.

Assessment

The proposed works would not amount to development requiring planning consent as the works are mainly internal, do not add additional space to the dwelling, and would be incidental to the use of the dwelling. Furthermore, the proposed works, under a condition of the GPDO 2015, would be required to use materials which would match the existing dwelling. Compliance with this condition would also ensure the works do not materially alter the exterior of the dwelling, in compliance with section 55 of the TCPA 1990. Following the proposed works the dwelling would be slightly different to its neighbour but other dwellings on the street and across the estate comprise of multiple design styles.

Recommendation:

Approve with conditions.