
Application number: 2025/0568

Description: Lawful development certificate for proposed change of use from garage/storeroom to residential flat

Location: 166 Barnsley Road, Darfield, Barnsley, S73 9DQ

Site Location & Description

The application site is located at 166 Barnsley Road, Darfield, Barnsley, S73 9DQ. This area of Darfield is predominately residential in character, with the dwellings consisting of a mix of detached semi-detached and terraced dwellings. Upperwood Academy is located nearby which is also located just off Barnsley Road. There are several small commercial properties in the area such as the Family Shopper convenience store, which is connected to 166 Barnsley Road and there is also a Nisa Local convenience store located adjacent to the site.

The site is a large dwelling with multiple bedrooms and has a convenience store attached to the rear/side of the property. The property has a driveway located at the front of the property and has a front garden which faces onto the Barnsley Road. The convenience store which is connected to the property has been developed on the previous rear garden space of the property.

Proposed Development

The applicant has submitted a certificate of lawfulness for a proposed change of use from garage/storeroom to residential flat. The garage/storeroom is currently used in conjunction with the existing residential property. The applicant is proposing to form a new flat which would be a separate residential dwelling.

The applicant has not provided any evidence for the change of use that it would be lawful or that it would fall under permitted development rights. The applicant has provided plans including a redline boundary and no supporting information.

Policy Context

Town and Country Planning Act 1990 (as amended), Section 192.

Consultations

Legal Services – No evidence has been provided by the applicant. The creation of the separate dwelling does not fall under permitted development rights, and thus the conversion to a flat will still require planning permission.

Representations

No letters were received from members of the public.

Relevant History

- 2019/1232 - Change of use of retail unit (A1) to restaurant and takeaway (A3 and A5) – Refuse

- 2025/0807 - Change of use to a seven-person house in multiple occupation (HMO) (Retrospective) – Refused – Appeal pending

Assessment

An application has been made for a lawful development certificate under section 192 of the Town and Country Planning Act 1990. Section 192 sets out the test to be applied when considering an application for a certificate of lawfulness. This section states that if the Local Planning Authority are provided with information satisfying them of the lawfulness at the time of the application for the change of use, operations or other matter described in the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application. Section 192 sets the following criteria:

- 1) If any person wishes to ascertain whether—
 - (a) any proposed use of buildings or other land; or
 - (b) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.
- (2) 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 they shall refuse the application.

Section 192 applications of this nature would require the following evidence demonstrating:

- A clear Statement of Proposed Use, confirming whether the unit is intended to be independent or ancillary.
- Evidence of the existing lawful use of the garage.
- Details of any proposed operational development.
- Information concerning access, services, parking, and self-containment.
- Explanation of the PD provisions relied upon (if any), including any consideration of Article 4 Directions.

The applicant has provided no justification for why planning permission is not required for this application. The applicant has provided plans with a redline boundary around the ground floor which is currently used as garage/storage room and includes the driveway which serves the whole property of 166 Barnsley Road. The change of use would therefore lead to a loss of parking for the larger residential property of 166 Barnsley Road. Therefore, leaving the larger family dwelling with no parking. The proposed flat would be a separate entity from the rest of the residential dwelling, and as such would require private amenity space. The applicant has not provided this either.

The plans which the applicant have provided show the development as a self-contained flat with its own entrance, kitchen, and bathroom and thus would be a separate dwelling that would be in the curtilage of the original dwelling.

The applicant has submitted no supporting documentation in support of the development, either why it does not need planning permission or that it has already been completed and the works are past the statutory enforcement time. The following evidence would be required, Council tax records,

utility bills, tenancy agreements, affidavits etc. This evidence must be concise and unambiguous. The applicant has not provided any of this evidence.

The Council's Legal Services have been consulted upon and has stated that the creation of a new dwelling within the curtilage of another dwelling would require planning permission. The creation of a new dwelling in a garage does not fall under permitted development rights, and thus the conversion to a flat would require full planning permission. As the intention is to form an independent residential unit, this constitutes a material change of use under s55(1) TCPA 1990. Planning permission is therefore required unless the change is authorised by the GPDO.

There is no permitted development (PD) right that allows a domestic garage or outbuilding to be converted into a new dwelling. Neither Part 1 (householder development) nor Part 3 (changes of use) of the GPDO permits the formation of a self-contained C3 dwelling within an existing garage. Accordingly, as a matter of law, the proposed use would not be lawful if instituted at the date of the application for the purposes of s192(2).

Therefore, the Council is entitled, and required, to refuse the s192 LDC on two grounds:

1. As a matter of law, the proposal would result in the creation of a new C3 dwelling, which is development requiring planning permission and is not permitted by the GPDO. Therefore, it would not be lawful if instituted at the date of the application.
2. As a matter of evidence, the application fails to provide adequate information to demonstrate lawfulness on the balance of probabilities for the purposes of s192(2) TCPA 1990.

As discussed in the report above it is therefore recommended that the certificate be refused.

Recommendation

Refusal of Certificate.