

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20250673
Location	24 Chiffinch Gardens Northfleet Gravesend Kent
Proposal:	Application for a Proposed Lawful Development Certificate for the conversion of garage into habitable rooms, including replacement of garage door with window.
Applicant:	Kat James
Site Visit	N/A Desktop Assessment

Plans & Documents

Application form for a Lawful Development Certificate for a Proposed Use or Development; Drawing no. 024KG/P Existing and proposed layouts, elevations and block plans; and Site location plan.

Property Type

The property comprises of a semi-detached, two storey dwelling with front and rear gardens.

Material Consideration

Section 55(1) of the Town and Country Planning Act 1990 (as amended).

Relevant Planning History

Reference	Description	Decision	Decision Date
20070499	Conversion of the attached garage into domestic storage area.	Permitted	20.07.2007
19910193	Erection of single storey side extension to form a garage.	Permitted	04.07.1991
19850066	Revised site layout and house types substituting 20 no houses in lieu of 12 no bungalows	Refused	13.03.1985
19840792	Revised site layout and house types	Permitted	26.11.1984
19820050	Details pursuant to outline planning permission GR/80/547 for the erection of 235 dwellings, layout of estate roads and associated garaging and car parking, as amended by drawing no 2p/9/13,2p/9/10 na/8194, ma/8195,ma/8179,a8194, a8195, a8945,s5/m/82b and your letter of 21.6.82	Approved	28.06.1982

19800547	Residential development. KCC granted outline planning permission.	Observations Sent	25.09.1980
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Officer Assessment

General approach

This application is for a Lawful Development Certificate and not for a planning permission and therefore, the planning merits of the case are not relevant. The determination must be based on the facts of the case and the interpretation of any relevant planning law or judicial authority. The applicant is responsible for providing sufficient information to support the application and the proposal must be described with sufficient clarity and precision to enable the Local Planning Authority (LPA) to understand exactly what is involved. The case officer has had regard to the advice contained in the National Planning Practice Guidance (the section relating to LDCs, paragraphs 005 to 009).

Details of the proposed development

The applicant has submitted a number of plans/documents, which are set out in the Plans & Documents Section above.

The applicant is proposing the conversion of a garage into habitable rooms, including the replacement of garage door with window.

Planning history relating to the existing garage

Planning permission was granted in July 1991 for the erection of single storey side extension to form a garage at the application site (reference 19910193). That permission was subject to the following condition;

(iii) The garage hereby permitted shall be used only for the parking of a private motor car and no development whether permitted by the Town and Country Planning General Development Order 1988 (as amended) or not, shall be carried out on the site in such a manner or in such a position as to preclude vehicular access into the garage.

(iii) That the development without provision for adequate accommodation for the parking or garaging of a private motor car is likely to lead to car parking inconvenient to other road users and detrimental to amenity.

In July 2007, planning permission was granted for the conversion of the garage into a domestic storage area (reference 20070499). That permission was subject to the following condition;

3 Before construction works begin on site a hardstanding for the parking of two cars shall be laid out in accordance with drawings approved in writing by the local planning authority, and thereafter shall be maintained permanently in place and shall not be altered or extended without the approval of the authority

3 To minimise demand for on-street parking

According to Google Street View images, a frontage parking area capable of accommodating two cars has been in place since before May 2012 and after October 2008. Therefore condition 3 of 20070499 has been complied with.

Although the submitted existing layout plan shows a garage use, there is no garage door. Instead, there is a pedestrian door. A feature that complies with the approved drawing for 20270499. Therefore, planning permission 20070499 was implemented and the lawful use of the existing 'garage' is for domestic storage. Although, at the case officer's site visit it was noted that the 'garage' is currently being used as a bedroom.

Definition of Development

Section 55(1) of Part 3 of the Town and Country Planning Act 1990 (as amended) sets out the meaning of development as follows:

“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.

Section 55(1A) of Part 3 of the Town and Country Planning Act 1990 (as amended) sets out that;

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.

Sections 55(2)(a) to (g) of Part 3 of the Town and Country Planning Act 1990 (as amended) set out various operations or uses that shall not be taken as involving development of the land. Section 55(2)(a) and (d) are relevant to this application and read as follows;

- (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,
- (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,

Therefore, in order to determine whether the proposal constitutes development, it is necessary to consider the following;

- Would the proposed development affect only the interior of the building or have a material effect on the external appearance of the building?
- Would the proposed development be for purposes incidental to the enjoyment of a dwellinghouse?
- Would the proposal constitute a material change of use?

Material effect on external appearance

Externally, the proposed development would involve the replacement of a plastic clad wall and pedestrian door with a brick wall and window. Such alterations would be small scale and would not be out of character with the existing building and as such, they would not have a material impact on its external appearance. The rest of the proposal would only affect the interior of the building.

Therefore, the proposal would be in line with Section 55(2)(a) of Part 3 of the Town and Country Planning Act 1990 (as amended).

Purposes Incidental to the enjoyment of a dwellinghouse

The Department of Communities and Local Government Technical Guidance Permitted Development Rights for Householders (September 2019) is helpful in giving clarity to the range and type of uses that can be considered as being for a purpose incidental to the enjoyment of a dwelling. On page 41, it states;

A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen.

Whilst it is acknowledged that this advice is in the context of assessing proposals for Class E permitted development, i.e. outbuildings, it provides useful background information.

In planning law there is a difference between an ancillary residential use - generally anything a person could do normally in a standard house as built e.g. eat, sleep, sit comfortably, pray, study, watch TV, shower and an incidental residential use - generally everything else, including storage, swimming, bowling, gym, art studio, or something that can be classed as a hobby. However, the distinction between 'incidental' and 'ancillary' uses is not always clear-cut. Usually, an incidental use is "parasitic" on the primary use - it cannot exist without it. Furthermore, the essential feature of ancillary uses is that there should be some functional relationship between the ancillary use and the primary use and that that functional relationship should be one that is normally found.

The existing lawful use of the 'garage' for domestic storage would be an incidental residential use because it would be reliant on there being a dwelling that requires items to be stored.

The proposed bedroom and shower room would have a functional relationship with the rest of the dwelling, they would be connected to the rest of the dwelling by a doorway, they would not have a separate external access and they would be used as an integral part of the main dwelling by a family member. As such, the proposed development would constitute an ancillary residential use.

Therefore, as an ancillary use, the proposal would not be for a purpose incidental to the enjoyment of the dwellinghouse and it would not be in line with Section 55(2)(d) of Part 3 of the Town and Country Planning Act 1990 (as amended).

Material change of use

Section 55(1) of the Town and Country Planning Act 1990 (as amended) sets out the definition of development, which includes the making of any material change in the use of any buildings or other land. A material change of use is not defined in any statute or statutory instrument and is a question of fact and degree in each individual case. In judging whether there would be a material change of use in any given case, there must be a significant difference in the character of the new activity, from that which has taken place previously.

Any off-site impacts of any new activity may be relevant in making such a judgement, including the impact on residential amenity, highway safety and parking. However, these issues are not determinative by themselves and should not be considered in isolation. They can be indicators of whether the increase in scale of a use has reached the point where it gives rise to materially different planning circumstances.

In this instance, the external appearance of the application property would remain as a dwelling and the proposal would provide habitable accommodation that would be used as part of the main dwelling. Therefore, the proposed use would not have a significantly different character to that of the existing lawful use and as such, there would not be a material change of use, that would constitute development under Section 55(1) of the Town and Country Planning Act 1990 (as amended).

Conclusion

The proposed development would result in a change in the use of the 'garage' from a domestic storage use (incidental use) to habitable accommodation (ancillary use) but it would not constitute a material change of use. As such and in line with section 55(1) of the Town and Country Planning Act 1990 (as amended), planning permission would not be required. The proposal would therefore be lawful and pursuant to section 192(2) of the Town and Country Planning Act 1990 (as amended), a Certificate of Proposed Lawful Development/Use can be granted.

Recommendation: Grant Lawful Development Certificate

Case Officer:	Mrs Kelly Joyce	Team Leader:	Richard Hart
Signed:	<i>K Joyce</i>	Signed:	<i>R Hart</i>
Dated:	27th August 2025	Dated:	27th August 2025