

Delegated Report

Officer: Ashleigh Gade (Senior Planning Officer)

Planning Ref: 25/00082/CLP

Applicant: Mr Luke Mitchell

Ward: Newbold Verdon with Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: 26 Barns Way, Newbold Verdon

Proposal: Certificate of lawful proposed development to partially convert an existing garage to a habitable room

1. Recommendations

1.1. Refuse Certificate of Lawful Proposed Development

2. Planning application description

- 2.1. This application seeks a Certificate of Proposed Lawful Development for the conversion of part of an integral garage into a habitable room at 26 Barns Way, Newbold Verdon.
- 2.2. The proposed conversion involves the division of 9.65 square metres to the rear of the garage to create a habitable room in the form of a living/games room. The remaining 7.32 square metres of space to the front of the garage would be retained as storage space.
- 2.3. The proposal involves no external modifications and would leave the existing garage door in situ.

3. Description of the site and surrounding area

- 3.1. The application site is located within the 'Ferrers Green' housing estate to the north-west of Newbold Verdon. The Ferrers Green estate is located on land straddling the settlement and countryside boundaries; nonetheless it now forms part of the residential extent of the village.
- 3.2. The application site is located on Barns Way which in this section is a private drive. The parking for the application dwelling is located within an integrated garage and two side by side spaces forward of the garage doors.
- 3.3. The application dwelling is two-storey detached with a projecting porch and an integrated garage. The dwelling is constructed of red facing brick and has a grey tiled roof with white uPVC windows and a grey entrance and garage door.

4. Relevant planning history

20/00143/FUL

- Residential development of 116 dwellings
- Planning Permission
- 15.01.2021

5. Publicity/Consultation

- 5.1. This is an application for a certificate of proposed lawful use and therefore no publicity or consultation is required.

6. Policy

- 6.1 The Town and Country Planning (Development Management Procedure) (England) Order 2015
- 6.2 Planning Practice Guidance (PPG)

7. Appraisal

- 7.1 This proposal has been considered with regard to Part 8 of the Town and Country Planning (Development Management Procedure) 2015 and the Planning Practice Guidance (PPG) for Lawful Development Certificates.
- 7.2 The PPG states that lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required. In determining an application, the local planning authority must ask, "if this proposed change of use had occurred, or if this proposed operation had been commenced, on the application date, would it have been lawful for planning purposes?".
- 7.3 The main consideration with respect to the lawfulness of this proposal is the interpretation of Condition 15 within the Decision Notice for planning permission 20/00143/FUL. Condition 15 states:

No occupation of any dwelling shall take place until such time as parking facilities for each dwelling has been provided, hard surfaced in accordance with MI139-SL-001 Rev M received 14th May 2020. Thereafter the onsite parking provision shall be so maintained in perpetuity.

- 7.4 The parking spaces for the application dwelling were not individually defined on the reference plan MI139-SL-001 Rev M. Nonetheless, it is considered that the final sentence of Condition 15 is clear in its intent to preserve the parking provision on all resulting dwellings.
- 7.5 The current operative highway design guidance is the Leicestershire Highways Design Guide (LHDG) (2024). The current LHDG requires three off-street parking spaces be provided for a four-bedroom dwelling. Further, it requires that a standard single garage have minimum internal dimensions of 6 metres by 3 metres. These standards would have applied to the site when 20/00143/FUL was determined, albeit under a previous iteration of the LHDG.
- 7.6 The application site provides two off-street parking spaces on the driveway forward of the doors of the integrated garage. The integrated garage meets the minimum dimensions required by the LHDG and therefore provides the third parking space.
- 7.7 It is therefore considered that the proposal is in conflict with Condition 15 of planning permission 20/00143/FUL as it would fail to maintain the parking provision on site. The proposal would therefore not be lawful for planning purposes and cannot satisfy the relevant considerations as detailed within the PPG.

8. Equality implications

- 8.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
 - (1) A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 8.3 There are no known equality implications arising directly from this development.
- 8.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).
- 9. Conclusion**
- 9.1 This application is not considered to constitute lawful proposed development as it is contrary to Condition 15 of planning permission 20/00143/FUL which granted permission for the application dwelling, including the integrated garage.
- 10. Recommendation**
- 10.1 **Refuse Certificate of Lawful Proposed Development** subject to the reasons at the end of this report.
- 11. Reasons**
- 1. The proposed use would be contrary to Condition 15 of planning permission 20/00143/FUL as it would fail to maintain parking provision on the site. Therefore, the proposal does not constitute lawful development and cannot be granted a certificate of lawful proposed use.