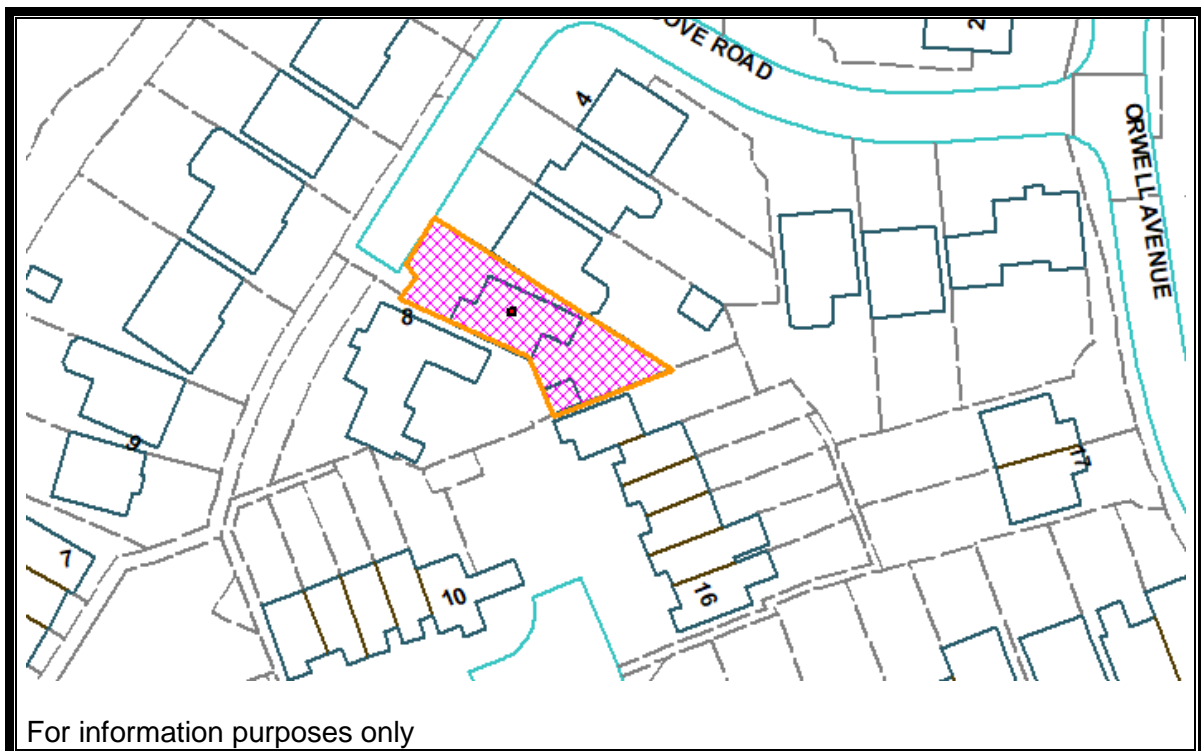


Meeting:	Planning and Development Committee	Agenda Item:
Date:	3 October 2023	
Author:	Linda Sparrow	07931 863551
Lead Officer:	Zayd Al-Jawad	01438 245257
Contact Officer:	Linda Sparrow	07931 863551

Application No :	23/00621/CLED
Location :	7 Dove Road, Stevenage
Proposal :	Certificate of Lawfulness for (Existing Development) for the enlargement and conversion of a garage into an annexe
Drawing Nos.:	Site Location Plan; Garage Plan; Garage Floor plan;
Applicant :	Ms Stephanie Beechey
Date Valid:	15 August 2023
Recommendation :	CERTIFICATE OF LAWFULNESS APPROVED



1. SITE DESCRIPTION

- 1.1 The application site comprises a detached property within a residential area of Stevenage. The front curtilage is fully block paved and can accommodate three vehicles. The original cat slide roof which formed a canopy over the garage has been filled in with a bay window following the conversion of the garage.

2. RELEVANT PLANNING HISORY

- 2.1 2/0246/94, Land North of Gorsedell. Outline planning application for residential development and associated estate roads and open space. Granted 22.09.1995.
- 2.2 2/0156/98, Land North of Gorsedell. Application to vary Condition No.2 of outline planning permission, reference number 2/0246/94, to extend the time period for the submission of reserved matters for residential development and associated estate road and open space. Granted 18.09.1998.
- 2.3 2/0358/98, Land North of Gorsedell. Details following outline planning permission, reference number 2/0246/94 for access road for residential development. Granted 09.02.1999.
- 2.4 00/00078/RM, Land North of Gorsedell. Details for 58 Dwellings and Associated Works Pursuant to Outline Planning Permission 2/0246/94 and Renewed by Permission 2/0156/98 ORWELL AVE (17 TO 29, DOVE ROAD, SEVERN WAY (2 TO 16), RYE CLOSE, KENMARE CLOSE (1 AND 2). Granted 26.06.2000.
- 2.5 01/00698/FP, Land North of Gorsedell. Application to modify Section 106 Agreement dated 22 September 1995 in respect of the definition of affordable housing rent. Granted 03.05.2002.
- 2.6 **Building Control Application:**
 - 2.6.1 09/02153/IN - Extension and conversion of garage into habitable accommodation and internal alterations to dwelling.
Notification received from Approved Inspector 15.09.2009.
Completion notice received from Approved Inspector 18.11.2009

3. THE CURRENT APPLICATION

- 3.1 Lawful Development Certificate (Existing) for the enlargement and conversion of the garage into habitable accommodation.
- 3.2 The application site has its permitted development rights intact; it is not located in a Conservation Area or any other Article 2(3) land and it is not a listed building.
- 3.3 This application comes before the Planning and Development Committee is because the applicant is an employee of Stevenage Borough Council. Therefore, in line with the Council's constitution, this application is being referred to the aforementioned committee for its decision.

4. PUBLIC REPRESENTATIONS

- 4.1 Planning Practice Guidance paragraph 008 Reference ID 17c-008-20140306 states that there is no statutory requirement to consult third parties, including neighbours. It goes on to state that views expressed by third parties on the planning merits of the case are irrelevant when determining the application.

5. CONSULTATIONS

- 5.1. Planning Practice Guidance paragraph 008 Reference ID 17c-008-20140306 states that there is no statutory requirement to consult third parties. It goes on to state that views expressed by third parties on the planning merits of the case are irrelevant when determining the application.

6. RELEVANT PLANNING POLICIES

- 6.1 Section 191 of the Town and Country Planning Act 1990 (as amended) provides that any person who wishes to ascertain whether any existing use or operation/development is lawful may make an application to the Local Planning Authority for a Lawful Development Certificate (LDC).
- 6.2 Section 191(4) states that *"if on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application"*.
- 6.3 Section 171B(1) relates to enforcement of breaches in planning control and states that *"where there has been a breach of planning control consisting in the carrying out, without planning permission, of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed"*.
- 6.4 National Planning Practice Guidance summarises the position in paragraph 003 (17c-003-20140306) in the following terms, *"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."*

7. APPRAISAL

- 7.1 Having checked the Council's Planning records, the Permitted Development (PD) Rights are intact for this application property. Specifically, there are no restrictions or conditions attached to the original planning permissions, referred to in Section 2 of this report, for the estate within which the application property is located in respect to parking, including restricting the use of garages for the parking of motor-vehicles only. This means the conversion of the original garage did not require planning permission from the Council as Local Planning Authority at the time the conversion was undertaken in 2009.
- 7.2 The Council is therefore satisfied that under Section 191(4) of the Town and Country Planning Act, a Lawful Development Certificate can be issued for this element of the development.
- 7.3 However, whilst details of the size of the extension have not been provided, it would appear that the garage was extended to the front to infill the existing overhanging canopy/cat slide roof. This would have required planning permission as it extends beyond the principal elevation of the dwellinghouse and fronts a highway, therefore not complying with Class A (extensions and alterations to a domestic dwellinghouse) of the General Permitted Development Order 2015 (as amended).
- 7.4 Notwithstanding this, the applicant has provided evidence in the form of their Building Control completion certificate from 2009 as confirmation that the works were undertaken more than 4 years ago and therefore exempt from enforcement action under the 4-year rule and Section 171.B of the Town and Country Planning Act 1990. Additionally, this evidence is corroborated by two factors:
1. Google street view from Dec 2009 clearly shows the conversion has already been completed (see figure 1).
 2. The Council's Building Control records have an entry from 2009 showing completion in November 2009.

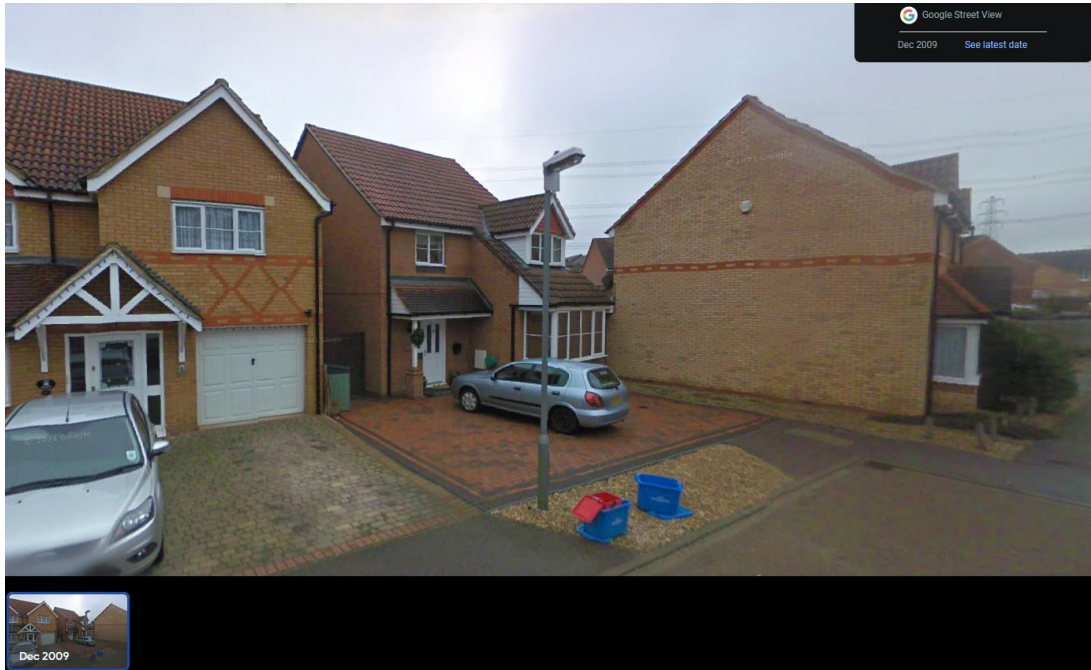


Figure 1: Google Street View from 2009



Figure 2: Property as 2023

7.5 Accordingly, Section 191(3A) states that when determining applications for LDC's, enforcement action against a breach of planning control can only be taken where the time limits set out in section 171B have not expired. Regarding this application, which is also seeking an LDC for an existing operation/development (i.e. the extension to the front of the garage), the time limit for enforcement action against the breach under section 171B(1) is four years from the substantial completion of the operation/development.

- 7.6 As has been laid out in this report, the works were completed in 2009. Therefore, the time limit for taking enforcement action against the breach of planning control expired in 2013. Accordingly, the development is now considered to be exempt from enforcement action and, in accordance with section 191(2)(a) the development is therefore lawful and under section 191(2)(b) no enforcement notices have been issued to which the development would be in contravention.

8. CONCLUSIONS

- 8.1 It is considered that on the balance of probabilities, the extension and conversion of the garage to habitable accommodation has been undertaken more than 4 years ago. Therefore, for the purposes of s.171B(1) of the Town and Country Planning Act 1990 (as amended) and the issue over the correct time period does not arise and it is considered that the works undertaken at the property known as 7 Dove Road to be lawful.

9. RECOMMENDATIONS

- 9.1 That the Certificate of Lawfulness is approved, subject to the following condition:
- 1 On the balance of probabilities, the evidence that has been provided has demonstrated that the enlargement and conversion of the garage at No. 7 Dove Road occurred more than 4 years ago. Therefore, for the purposes of S.171B of the Town and Country Planning Act 1990 it is considered that the enlargement and conversion of the garage is now lawful and exempt from enforcement action.

10. BACKGROUND DOCUMENTS

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage Borough Local Plan 2011 – 2031 adopted 2019.
3. Central Government advice contained in the National Planning Policy Framework September 2023 and Planning Practice Guidance.