

33 Copperfield Close, Clitheroe, Lancs. BB7 1ER

Application for a Lawful Development Certificate for the adaptation of a garage to use as residential accommodation in breach of condition 7 of planning permission 3/2002/0187.

Town and Country Planning Act 1990: Section 191 as amended by section 10 of the Planning and Compensation Act 1991. Town and Country Planning (Development Management Procedure ) (England) Order 2015.

Planning Statement JDTPL0277

## 1 INTRODUCTION

- 1.1 This application is submitted under the provision of Section 191 (1) of the Town and Country Planning act 1990 (as amended) and seeks a Lawful Development Certificate certifying the lawfulness for planning purposes of the existing use of a ground floor room originally constructed as a garage at 33 Copperfield Close Clitheroe. The failure to retain the garage is in breach of condition 3/2002/0187. The condition restricted the use of the garages solely for the purpose of parking motor-vehicles. The condition states:  
*"The integral garage shown on the house type Sutton shall be retained and shall not be converted to residential accommodation at a later date and always available as garaging"*  
(Condition no.7 of planning permission 3/2002/0187/P)
- 1.2 33 Copperfield Close, Clitheroe is a terraced dwelling with garden and parking edged red on the submitted location plan sale 1:1250, which will be referred to as the dwelling and as the application site. The application is made in accordance with Part 8 article 39 of the Development Management Procedure Order 2015.
- 1.3 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. The National Planning Practice Guidance states where the application is for existing use, *"if the local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is not good reason to refuse the application, provided that the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability"*.
- 1.4 The application is made on the basis that the garage was converted to a room and has been in use continually as such for a period in excess of 10 years.

## 2 BACKGROUND AND HISTORY

- 2.1 The dwelling the subject of this application is part of an estate of houses built under planning permission 3/2002/0187. The specific house type was "Sutton". Mr and Mrs Parkinson bought the property in 2009. The layout of the ground floor of the property as built included a very narrow integral garage.

- 2.2 In November 2010 Mr and Mrs Parkinson decided to convert the garage into a room. They removed the garage door and inserted a set of bi-fold doors. They installed a timber floor, carried out plastering, decorated the room and moved furniture in. The room is used as a dining and sitting room. The garage ceased to be available for use as a garage in November 2010 and has been used as an additional room to the house ever since.

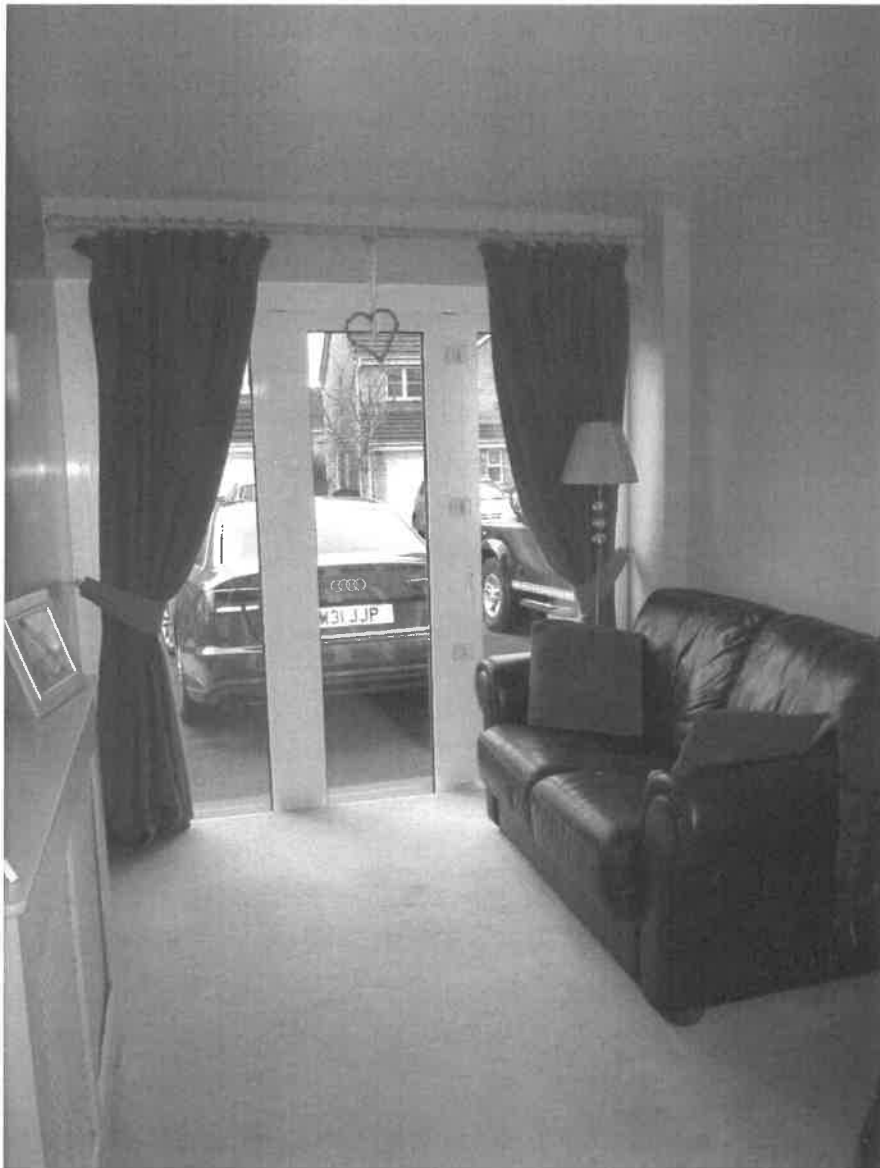


1 Front elevation of 33 Copperfield Close. Bi-fold doors in place of garage doors.

- 2.3 The new timber floor is above the level of the original garage floor and the driveway. The step up is screened by an opaque glass strip at the bottom of the bi-fold doors. When the bi-fold doors are open there is a step up from the drive into the room. Once the bi-fold doors and the timber floor were installed it was no longer possible for a vehicle to be parked in the garage.



2. Opaque glass obscuring the difference in height between the timber floor on the inside and the tarmac drive on the outside.



3 Internal view showing that the lower frames of the bi-fold doors are beneath the level of the timber floor.

- 2.4 The applicant has provided a quote and invoice from Leaffield Windows Clitheroe. The quote dated 9<sup>th</sup> October 2010 is for *"3 pane Bi-folding doors in white aluminium, open out single door with folding to the outside. To include sandblasted glass for privacy (height to be determined) from floor level and clear glazing above"*. See appendix 1. The invoice dated 2<sup>nd</sup> November 2010 was for the supply and fitting on the bi-fold doors and invoice was paid on the Thursday 4<sup>th</sup> of November 2010 the day that the windows were fitted. See appendix 2. The applicant recalls the sequence of works as follows:

*"I had the week following the installation of the bi-fold doors off work. Over the course of the week, I installed the floor and' dot and dabbed' plaster boarded the walls. At the end of that*

*week, I had a plasterer come in to skim the plaster boarded walls. It then took a full week for the plaster to dry before I fitted the skirting boards and decorated the room. Carpeting and furnishing the room quickly followed this but I cannot advise exactly what the date was but I'm confident it was done by the end of November 2010 as we used the room for a dinner party in early December 2010."*

- 2.5 The applicant cannot recall exactly when the conversion of the room was completed but estimates that this was by the end of November 2010. He is clear that by early December the conversion from a garage to a habitable room was complete and the room was in use as residential accommodation and was no longer available as garaging .

- 2.5 Mr Parkinson has provided a statutory declaration to confirm these facts.

### **3.0 DISCUSSION.**

- 3.1 Condition 7 attached to planning permission 3/2002/0187 required that the garage should not be converted to residential accommodation and that it should always be available as garaging. The condition does not require the garage to be used as garaging it requires is to be available for garaging. A non-car owner may occupy the house, but the garaging must be still available. Using the garage to store domestic items or house a freezer or washing machine may not in themselves prevent the garage from being 'unavailable' since these items could be easily removed.
- 3.2 The adaptation of the garage to a room through the replacement of the garage door and the insertion of a timber floor are permanent and substantial alterations. At the point where the physical alterations were complete the garage was made unavailable for garaging.
- 3.3 By furnishing the room with a carpet, decorating the walls, hanging curtains, placing furniture and occupying the room the garage was made into residential accommodation.
- 3.4 It is clear that by early December 2010 the adaptations to the garage and use of the room as residential accommodation was complete and active in direct contravention of condition 7 of planning permission 3/2002/0187. The condition has been breached for a period in excess of 10 years and is now immune from enforcement. Section 171 B (3) of the Town and Country planning Act 1990 which states "*in the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach*".

- 3.5 The work carried out to alter the garage to create additional residential accommodation and the use of the garage as another room in the house has not been concealed by the applicant. The original garage door was removed on the 4<sup>th</sup> November 2010 so the intention to cease making the garaging available was clear from that point. The ground floor room is at the front of the house and is clearly visible from the street. The applicant also submitted a planning application in 2019 reference 3/2019/1026 attempting to regularise the situation.

#### **4.0 CONCLUSION**

- 4.1 We have provided proof that the garage was converted into a room in November 2010. This is supported by a statutory declaration made by the applicant. Since November 2010 alterations to the former integral garage has meant that it cannot physically be used for garaging and as such has not been available for use as garaging for a period in excess of 10 years in breach of condition 7 of planning permission 3/2002/0187. The former garage has been used for residential accommodation since early December 2010 a period in excess of 10 years in breach of condition 7 of planning permission 3/2002/0187. On the basis of this information, we assert that condition 7 of permission 3/2002/0187 is unenforceable and the use of the ground floor front room of the dwelling as residential accommodation is now lawful.

#### **Appendices.**

1. Leaffield Windows quote dated 9<sup>th</sup> October 2010
- 2 Leaffield Windows invoice dated 2<sup>nd</sup> November 2010
- 3 Statutory declaration of Mr J Parkinson dated 9<sup>th</sup> December 2020.

Appendix 1

Mrs J Parkinson  
33 Copperfield Close  
Clitheroe  
BB7 1ER

9th October 2010

Quotation LQ 5685a

Further to my recent visit, I am pleased to confirm our Quotation for the supply and installation of the following:

3 Pane Bi-Folding Doors in White Aluminium, open out single door with folding to the outside.  
To include Sandblasted Glass for privacy, up to (height to be determined) from floor level and clear glazing above.  
All Glazing Toughened High Performance Low "E" Argon filled glass.

Total Price supplied & fitted £2,614.00 plus vat @ 17.5% = £3,071.45 including vat

Deposit at time of order £800.00 leaving balance due on installation £2271.45

Please note that the above prices are *inclusive* of all materials & labour.

10 year guarantee on upvc Frames & Glazing units, 1 year on hardware.

Insurance Backed Guarantees are available to purchase on request.

We trust this quotation meets with your approval and look forward to hearing from you.

If you have any queries, please do not hesitate to contact us,

business no: 31351



## Appendix 2

Mrs J Parkinson  
33 Copperfield Close  
Clitheroe  
BB7 1ER

2nd November 2010

Invoice No: Li 1578

Please find below our invoice for the supply & fitting of the following:

New 3 Pane Bi-Folding Doors in White Aluminium.

Including High Performance Toughened Low "E" Argon filled glazing.

	£
	2614.00
Vat @ 17.5%	457.45
Invoice Total including vat	<u>£3,071.45</u>

We would like to take this opportunity to thank you for this order and should you require any further assistance, please do not hesitate to contact us.

Fensa registered business no: 31351

