

32 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 JDTPL0278

Judith Douglas BSc (Hons), Dip TP, MRTPI



8 Southfield Drive, West Bradford, Clitheroe Lancashire, BB7 4TU

Email

## 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 32 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 32 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 Driver bought the property in 2004. The layout of the ground floor of the property as built included a very narrow integral garage.
- 2.2 In October and November 2010 Mr Driver carried out soundproofing work and plastering to the internal walls of the property including the garage. As the garage was not being used due

to its insufficient width it was decided as part of the work to convert the garage into a room. A new timber floor was installed. This was followed in December 2010 by the removal of the garage door and the insertion a set of bi-fold doors supplied by Leafield Windows. The bi-fold doors were installed on the 14<sup>th</sup> December 2010. On the 17<sup>th</sup> December 2010 Mrs Driver went into hospital for a hip replacement operation. Mrs Driver recalls that the room was decorated, carpeted and furnished when she returned home on the 22<sup>nd</sup> December 2010 in time for Christmas. The garage ceased to be available for use as a garage in October/November 2010. The room was in use as a sitting room soon after the bi-fold doors were installed and certainly by the 22<sup>nd</sup> December 2010 and has been used as an additional room to the house ever since.

- 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. See photographs 1 and 2.



1. Opaque glass obscuring the difference in height between the timber floor on the inside and the tarmac drive on the outside 32 Copperfield Close.



2 Interior of former garage now a sitting room at 32 Copperfield Close. The lower frame of the bi-fold doors is beneath floor level.



3. Front elevation of 32 Copperfield Close. Bi-fold doors in place of garage doors.

- 2.4 The applicant has provided a quote and invoice from Leafield Windows Clitheroe. The quote dated 12<sup>th</sup> November 2010 is for *“3 pane Bi-fold doors in white, opening with Clear High Performance glazing, Sandblasted to 300mm”* See appendix 1. The invoice dated 14<sup>th</sup> December 2010 was for the supply and fitting on the bi-fold doors and invoice was paid on the day that the windows were fitted. See appendix 2. The applicant recalls the sequence of works as follows:

*“During October and November some preparatory work was done in readiness for the bifold doors being fitted on December 14<sup>th</sup> 2010. I went into Gisburn Park on December 17<sup>th</sup> 2010 for a hip replacement and on my return home the room had been finished and was ready for use at Christmas. It has been in regular use since then.”*

- 2.5 A regular visitor to 32 Copperfield Close and two neighbours have written letters to confirm that the garage was converted into a room in 2010. See appendix 3. Regular visitor JSK Coupe confirms that Mr and Mrs Driver carried out soundproofing to their house and that the bi-fold doors were fitted in 2010 and harmonised with the bi-fold doors at 33 Copperfield Close. L Tomlinson of 30 Copperfield Close confirms that the house was soundproofed in October/November 2010 with the sitting room being completed the following month. Philip Bilpin of 16 Copperfield Close confirms that alterations were being made to the ground floor of the house and bi-fold doors were installed in 2010.
- 2.5 We have prepared a statutory declaration to confirm these facts, but it is yet to be witnessed. This is because Mr and Mrs Driver are shielding due to the covid 19 virus. Given the other evidence that has been provided we consider that there is sufficient supporting information to confirm that the development is now lawful without the provision of a statutory declaration. If one is required by the Council, it can be provided once Mr and Mrs Driver cease shielding.

### **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 22<sup>nd</sup> 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 14<sup>th</sup> December 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.

#### 4.0 CONCLUSION

- 4.1 We have provided proof that the garage was converted into a room by December 2010. This can if required be supported by a statutory declaration. Since December 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 at least 22<sup>nd</sup> 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 12<sup>th</sup> November 2010
- 2 Leaffield Windows invoice dated 14<sup>th</sup> December 2010
- 3 Letters of Support.