

Received Date:	4 September 2024
Expires:	30 October 2024
Application Number:	242287
Site:	2 Hampshire Way, Wokingham, RG41 3AX
Application:	Application for a certificate of lawfulness for the proposed garage conversion and repositioning of the boundary wall.

1. Relevant Planning History

Application Number	Proposal	Decision Date	Decision	Relevant Conditions
241677	Householder application for proposed dropped kerb and new driveway, garage conversion to create habitable accommodation and erection of new front boundary wall.	23/08/2024	Refused	N/A
17895	Detached house and garage	27/07/1982	Approved	Conditions 4 & 14*

**Condition 4 of planning consent 17895 states: "The garage hereby permitted shall all be built concurrently with the respective dwellings on the site. The garages shall all be used as domestic garages only and shall not be used for business purposes nor for any other purpose without the prior written permission of the District Planning Authority."*

Condition 14 of planning consent 17895 states: "no wall, fence, gate, hedge or any means of enclosure shall be erected or planted beyond the forwardmost part of any wall of any dwelling hereby approved which fronts on a highway, unless permission has been granted by the District Planning Authority on an application made for that purpose."

2. Site Description

Two storey detached dwelling with a generous front garden and detached side double garage to the side/rear of the house.

3. Land/ Property Designations

- The property is located within the Major settlement area of Wokingham.
- There are no listed buildings at the site and the property is not within 'Article 2(3) land' (Town and Country Planning (General Permitted Development) Order 2015).
- The site is not subject to any wildlife or habitat designations.

4. Legislation

Town and Country Planning Act 1990 (as amended)

- s.55 Provides that '*development*' includes the carrying out of building operations on land, and '*building operations*' includes structural alterations or additions to buildings.
- s.57 Planning permission is needed for all development of land.
- s.187a Enforcement for breach of conditions
- s.192 Applications for Certificates of Lawfulness of proposed use or development.
- s.191 Defines operations as 'lawful' if:
- (a) No enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
 - (b) They do not constitute a contravention of any of the requirements of any enforcement notice then in force.

Town and Country Planning (General Permitted Development) Order 2015 (GPDO)

Article 3 In conjunction with Schedule 2 (Part 1) (Class A) grants planning permission for the "*enlargement, improvement or other alteration of a dwellinghouse*".

In conjunction with Schedule 2 (Part 2) (Class A) grants planning permission for "*the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure*".

Article 4 Provides that the planning authority may give direction to restrict the effect of Article 3.

5. The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

6. Relevant details of the proposal:

The existing double garage will be converted internally to a family room with storage room and a WC. Externally, the garage door will be replaced with a window and door and brick infill to match existing materials on the property. The existing door on the side elevation will also be replaced with two windows.

The existing 2m high side boundary wall between the main house and the double garage will be repositioned to be 1m set back from the public footpath. The new wall will be 2m in height and will be made of brick to match the existing boundary wall.

7. Assessment against legislation:

Conversion of the garage (Part 1) (Class A)

			Yes	No
s.55	1	Does it constitute development?	✓	

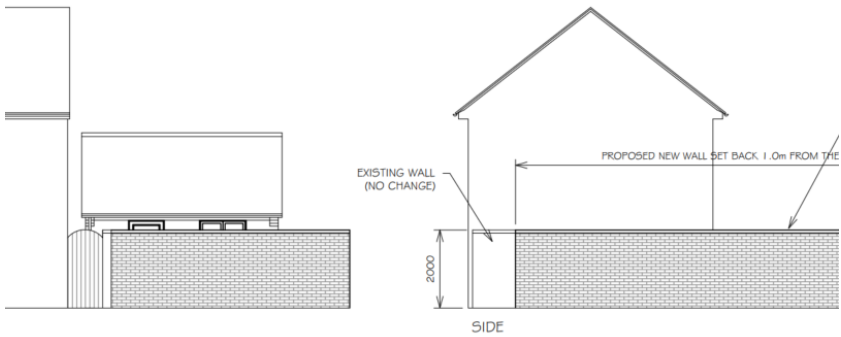
			Yes	No
s.191	2	Would it be contrary to an enforcement notice?		✓
s.187a Art.3 (4)	3	Would it be contrary to any condition imposed by any planning permission granted or deemed to be granted? <i>*Condition 4 of planning consent 17895 states: "The garage hereby permitted shall all be built concurrently with the respective dwellings on the site. The garages shall all be used as domestic garages only and shall not be used for business purposes nor for any other purpose without the prior written permission of the District Planning Authority."</i>	✓* Cond 4	
Art.3 (5)	4	Are the building operations involved in the construction of the original building lawful?	✓	
Art.3 (6)	5	Does it involve the formation, laying out or material widening of a means of access to an existing highway which is a trunk or classified road, or creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons?		✓
Art.4	6	Is there an 'Article 4 Direction' in effect for the site?		✓
Sch.2 Pt. 1 A	7	Does it consist of enlargement, improvement or other alteration of a dwellinghouse?	✓	
A.1(a)	8	Has permission to use the dwellinghouse as a dwellinghouse been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use)?		✓
A.1(b)	9	Would the total area of ground covered by buildings (other than the original dwelling) exceed 50% of the total area of the curtilage?		✓
A.1(c)	10	Would the height of the part of the dwellinghouse enlarged, improved or altered exceed the height of the highest part of the roof of the existing dwellinghouse?		✓
A.1(d)	11	Would the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse?		✓
A.1(e)	12	Would the enlarged part of the dwellinghouse extend beyond a wall which - (i) fronts the principal elevation of the original house; or (ii) fronts a highway and forms a side elevation of the original dwellinghouse?		✓
A.1(f)	13	If the enlarged part of the dwellinghouse is single storey, would it either: (i) extend beyond the rear wall of the original dwellinghouse by more than: 4 metres in the case of a detached dwellinghouse 3 metres in the case of any other dwellinghouse; or (ii) exceed 4 metres in height		✓
A.1(g)	14	For a dwellinghouse not in article 2 (3) land (incl conservation area) if the enlarged part of the dwellinghouse is single-storey, would it either (i) extend beyond the rear wall of the original dwellinghouse	N/A	

			Yes	No
		by more than: 8 metres in the case of a detached dwellinghouse 6 metres in the case of any other dwellinghouse; or (ii) exceed 4 metres in height NB: As per Para A.4 of Part 1 of for development that exceeds the limits in para A.1 (f) (question 13) but is allowed by para A.1 (g) (question 14) <u>Prior Approval via the 'Neighbours Notification Scheme' is required</u>		
A.1(h)	15	If the extension would be more than a single storey would it: (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or (ii) be within 7 metres of the rear boundary of the curtilage.	N/A	
A.1(i)	16	Would the enlarged part of the dwellinghouse would be within 2 metres of the boundary with an eaves height in excess of 3 metres?	N/A	
A.1(j)	17	Would the enlarged part of the dwellinghouse extend beyond a wall forming a side elevation of the original dwellinghouse and: (i) exceed 4 metres in height, (ii) have more than a single storey, or (ii) have a width greater than half the width of the original dwellinghouse	N/A	
A.1(k)	18	Would the development consist of or include: (i) the construction or provision of a verandah, balcony or raised platform, (ii) the installation, alteration or replacement of a microwave antenna, (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or (iv) an alteration to any part of the roof of the dwellinghouse.		✓
A.2(a)	19	Article 2(3) land (inc. conservation areas): a. Would the development consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles?	N/A	
A.2(b)	20	b. Would the extension extend beyond a wall forming a side elevation of the original dwellinghouse?	N/A	
A.2(c)	21	c. Would the extension have more than a single storey and extend beyond the rear wall of the original dwellinghouse?	N/A	
	22	Would it affect or be within the Root Protection Area of a TPO'd tree? <i>* Does not affect Article 3 permission but separate TPO approval will likely be needed.</i>		✓

Conclusion:

The proposed garage conversion to create habitable accommodation constitutes development and thus requires planning permission. Permission is NOT available under Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), the proposal not being in accordance with Schedule 2 (Part 1) (Class A) of the Order because condition 4 of planning consent 17895 (27/07/1982) restricts the use of the garage as a domestic garage only.

Reposition of the boundary wall (Part 2) (Class A)

			Yes	No
s.55	1	Does it constitute development?	✓	
s.191	2	Would it be contrary to an enforcement notice?		✓
s.187a Art.3 (4)	3	Would it be contrary to any condition imposed by any planning permission granted or deemed to be granted? <i>*Condition 14 of planning consent 17895 states: “no wall, fence, gate, hedge or any means of enclosure shall be erected or planted beyond the forwardmost part of any wall of any dwelling hereby approved which fronts on a highway, unless permission has been granted by the District Planning Authority on an application made for that purpose.”</i>	✓* Cond 14	
Art.3 (5)	4	Are the building operations involved in the construction of the original building lawful?	✓	
Art.3 (6)	5	Does it involve the formation, laying out or material widening of a means of access to an existing highway which is a trunk or classified road, or creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons?		✓
Art.4	6	Is there an ‘Article 4 Direction’ in effect for the site?		✓
Sch.2 Pt. A	7	Does it consist of the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure?	✓	
A.1(a)	8	Would the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic, after the carrying out of the development exceed: (i) One metre above ground level? **Yes, shown on plan no. D2991-02 to measure 2m in height.  (ii) In the case of schools, two metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than one metre above ground level does not create an obstruction to	✓**	

			Yes	No
		the view of persons using the highway as to be likely to cause danger to such persons?		
A.1(b)	9	Would the height of any other gate, fence, wall or means of enclosure erected or constructed, after the carrying out of the development exceed two metres above ground level?		✓
A.1(c)	10	Would the height of any gate, fence, wall or other means of enclosure maintained, improved or altered, as a result of the development, exceed its former height or the height referred to in A1(a) or (b) above as the height appropriate to it if erected or constructed, whichever is the greater?		✓
A.1(d)	11	Would it involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building?		✓

Conclusion:

The proposed repositioning of the side boundary wall constitutes development and thus requires planning permission. Permission is NOT available under Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), the proposal not being in accordance with Schedule 2 (Part 2) (Class A) of the Order.

DRAFT APPROVED



Development Management Team Leader

Date: 24 September 2024