

Application Number	10/0319/CL2PD	Agenda Item	
Date Received	8th April 2010	Officer	Mr Wayne Viles
Target Date	3rd June 2010		
Ward	Queen Ediths		
Site	117 Mowbray Road Cambridge Cambridgeshire CB1 7SP		
Proposal	Application for Lawful Development Certificate (S192) for erection of a 4m high garage to rear and creation of vehicular access onto Hulatt Road.		
Applicant	Mr Edward Durrant 117 Mowbray Road Cambridge Cambridgeshire CB1 7SP		

This application is brought to Committee because the applicant has recently worked in the City Council Development Control team, on secondment from another planning authority.

Site Description and Area Context

- 1.1 117 Mowbray Road is a 1950's semi-detached, two-storey dwellinghouse, standing on the east side of Mowbray Road which, although an urban primary road and part of the City Ring Road, is also a residential street. 117 Mowbray Road is the northernmost house in a terrace of four, semi-detached dwellings the design of which shares much in common with other houses in the street.
- 1.2 The house stands in a rectangular plot a little over 8 metres wide and 44 metres long, that is, almost, on an east-west axis. At the western end of the plot is Mowbray Road; at the eastern end of the plot is the carriageway of a cul-de-sac 'spur' of Hulatt Road that runs parallel to Mowbray Road and which is separated from the garden only by a close-boarded fence. To the north and south are the gardens of neighbouring properties. At the northern end of this spur of Hulatt Road is an exception to the predominantly

two storey residential dwellings in the surrounding area, with a cluster of terraced bungalows to the east and northeast of the end of the cul-de-sac.

- 1.3 The site is not allocated in the Cambridge Local Plan (2006) nor does it fall within a City of Cambridge Conservation Area.

2.0 Description of Application

- 2.1 This is an application for a Certificate of Lawfulness for the “erection of a 4metre high garage to the rear of 117 Mowbray Road and creation of a vehicular access onto Hulatt Road”.
- 2.2 The proposed building is a single-storey domestic garage that would be set 2 metres away from each side boundary, 2 metres back from the common boundary with Hulatt Road and 16 metres from the rear of the existing house 117 Mowbray Road. This would make the building a little over 4m wide and about 14metres long, with an eaves height of 2.4m and a ridge height of 4m; it would allow sufficient space to accommodate two cars parked nose to tail and accommodate a small workshop/storage space about 3.6m square. The outbuilding will be constructed of facing bricks with a tiled roof.

The following evidence supports the application:

Drawing numbers 2A, 3A and 4A supported by a Planning Statement.

The application is made under Section 192 of the Town and Country Planning Act 1990.

3.0 Site History

Reference	Description	Outcome
09/0204	Erection of two bungalows in curtilage of 115 and 117 Mowbray Road	Refused. Appeal Dismissed
10/0519	Erection of two bungalows in curtilage of 115 and 117 Mowbray Road	Pending

4.0 Assessment

- 4.1 This is an application made under S192 of the Town and Country Planning Act 1990 for a Certificate of Lawfulness for the erection of a single storey garage and creation of a vehicular access onto Hulatt Road. The applicant seeks to demonstrate that the proposed works constitute development not requiring planning permission as set out in Class E of Part 1 (the garage) and Class B of Part 2 (the formation, laying out construction of a means of access to a highway which is not a classified or trunk road) of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), 'The Order'. Copies of the relevant Classes of 'The Order' are attached as an Appendix to this report.

The Garage

- 4.2 Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 addresses, 'Development within the curtilage of a dwellinghouse'.

Class E of Part 1 sets out that:

“The provision within the curtilage of the dwellinghouse of—

(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or

(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas”,

constitutes permitted development, but then goes on to explain that development is not permitted in a number of specific circumstances. A building used as has been suggested here, for a garage and storage space would reasonably be considered as “...a building ... required for a purpose incidental to the enjoyment of the dwellinghouse as such...,” and the broad principle is therefore established. That having been done it is then necessary to consider the specific circumstances where development is not permitted; those circumstances are set out below in italics, with the officer response to each specific case below.

E.1 Development is not permitted by Class E if—

(a) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the

curtilage (excluding the ground area of the original dwellinghouse);

Although the applicants plans, particularly plan 2A, do not as would have been helpful show a full site plan with all buildings enclosures and containers marked, the proposed overall site is about 44m x 8.4m (396.6sqm); the house as extended has a footprint of about 50sqm leaving (396.6 – 50sqm) 346.6 sqm 'open'. Other existing buildings, enclosures and containers cover about 20 sq metres, which together with the proposal (14m x 4.3m = 60sqm), means in all approximately 80 sqm of 346.6sqm will be covered = rather less than 23%. The proposal does not therefore exceed the 50 % tolerance;

(b)any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;

Advice is given that there will only be one principal elevation on a house and that in most cases it will be that part of the house fronting the main highway serving the house, the one that sets the postcode. Given that definition, the principal elevation in this circumstance will be that facing Mowbray Road, and what is proposed would not be forward of a wall forming the principal elevation of the original dwellinghouse.

(c)the building would have more than one storey;

What is proposed would not have more than one storey.

(d)the height of the building, enclosure or container would exceed—

(i)4 metres in the case of a building with a dual-pitched roof,

(ii)2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or

(iii)3 metres in any other case;

The submitted plans show a dual-pitch roof the height of which would not exceed 4 metres; the submitted drawings show that no part of the proposed building would be within 2 metres of any boundary of the curtilage of the dwelling house.

(e)the height of the eaves of the building would exceed 2.5 metres;

The submitted plans show the eaves of the building would not exceed 2.5 metres.

(f) the building, enclosure, pool or container would be situated within the curtilage of a listed building;

The building would not be situated within the curtilage of a listed building;

(g) it would include the construction or provision of a veranda, balcony or raised platform; (h) it relates to a dwelling or a microwave antenna; or

(i) the capacity of the container would exceed 3,500 litres

The building would not include the construction of a veranda, balcony or raised platform; does not relate to a dwelling or microwave antenna; nor propose a container with a volume exceeding 3500 litres.

E.2 *Precludes or further limits permitted development rights in this Class for any land within the curtilage of the dwellinghouse which is within—*

(a) a World Heritage Site,

(b) a National Park,

(c) an area of outstanding natural beauty, or

(d) the Broads,

None of these constraints apply to this application

E.3 *Precludes or further limits permitted development rights in this Class for any land within the curtilage of the dwellinghouse which is article 1(5) land.*

Article 1(5) land includes land in Conservation Areas; the site is not within Article 1(5) land.

4.3 Although the text in the Planning Statement accompanying the application suggests that existing outbuildings will be removed, as the accompanying plans do not show or dimension the relevant structures, the assessment of the floor area of the site covered has been made assuming their retention, even in those circumstances the tolerance is not exceeded.

4.4 Having considered all the tests of Class E of Part 1 of 'The Order',

I am of the opinion that provided the building is erected in accordance with the submitted drawings regarding its height and location and is required for a purpose incidental to the enjoyment of the dwellinghouse as such, the proposal constitutes permitted development.

The creation of a Vehicular Crossing.

- 4.5 Class B of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) addresses, “The formation, laying out and construction of a means of access to a highway which is not a trunk or classified road, where that access is required in connection with development permitted by any Class in this Schedule” – except for permitted development dealing with the erection, construction, maintenance, improvement or alteration of a gate, wall or other means of enclosure.)
- 4.6 The laying out and construction of a means of access to a highway is in this case required in connection with the permitted development of the garage/storage building addressed in paragraphs 4.2 to 4.4 above. As the assessment of that building is accepted as demonstrating that it does constitute permitted development, Class B of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) is the appropriate part of the legislation. As Hulatt Road is not a trunk or classified road I am of the opinion that the laying out and construction of the means of access to a highway also constitutes permitted development.

5.0 Conclusions

- 5.1 Based on the evidence supplied in the plans accompanying the application and the planning statement, it is concluded that the proposed outbuilding will constitute permitted development under Class E of Part 1 (the garage/store) and Class B of Part 2 (the formation, laying out construction of a means of access to a highway which is not a classified or trunk road) of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, as amended by the Town and Country Planning (General Permitted Development)(Amendment)(No 2) (England) Order 2008 and accordingly such works do not require specific planning permission and would be lawful for planning purposes.

6.0 Recommendation

- 6.1 That a Certificate of Lawfulness be granted under Section 192 of the Town and Country Planning Act 1990 (as amended) for the erection of a single storey domestic garage and store within the rear garden of 117 Mowbray Road and for the formation, laying out and construction of a means of access to a highway, Hulatt Road, which is not a classified or trunk road, to serve the said single storey domestic garage and store.

Decision

1. It appears to the Local Planning Authority that the proposed outbuilding will not be erected forward of the principal elevation fronting a highway. The maximum height of the roof of the outbuilding will not exceed 4 metres in height and the eaves height will not be over 2.5 metres in height. No part of the outbuilding will lie within 2 metres of any boundary of the curtilage of the dwellinghouse and the ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse - but including that proposed) will not exceed more than 50% of the garden area. The proposed use of the outbuilding will be for domestic use as a garage and garden store and will not be used as a dwelling.

In respect of the creation of a vehicular access onto Hulatt Road, it appears to the Local Planning Authority that the proposed access is required in connection with development permitted by another Class in this schedule (the garage/store that is permitted development under Class E of Part 1). It is accepted that Hulatt Road is not a trunk road or classified road.

For these reasons it is considered that the proposed outbuilding will fall within the tolerance limits set under Classes E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development)(Amendment)(No 2) (England) Order 2008 and that the vehicular access onto Hulatt Road is permitted development under Class B of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, as amended and both will therefore be lawful for planning purposes.

FIRST SCHEDULE

The erection of a single storey domestic garage and store within the rear garden of the curtilage and the creation of a vehicular access onto Hulatt Road

SECOND SCHEDULE

117 Mowbray Road, Cambridge, as identified outlined in RED on the location plan attached to this Certificate.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Under Section 100D of the Local Government Act 1972, the following are “background papers” for each report on a planning application:

1. The planning application and plans;
2. Any explanatory or accompanying letter or document from the applicant;
3. Comments of Council departments on the application;
4. Comments or representations by third parties on the application as referred to in the report plus any additional comments received before the meeting at which the application is considered; unless (in each case) the document discloses “exempt or confidential information”
5. Any Structure Plan, Local Plan or Council Policy Document referred to in individual reports.

These papers may be inspected by contacting John Summers (Ext.7103) in the Planning Department.