

DELEGATED DECISION REPORT

HPK/2025/0449
Valid 14/11/2025

157 ASHLEIGH , PARK
ROAD , BUXTON ,
DERBYSHIRE , SK17 6SW

LAWFUL DEVELOPMENT
CERTIFICATE FOR THE
PROPOSED CONVERSION OF
THE GARAGE INTO LIVING
ACCOMMODATION

(CERTIFICATE OF
LAWFULNESS - PROPOSED)

MAIN ISSUES

Whether the proposed development comprises development under

DESCRIPTION OF SITE

The application relates to a residential property known as 157 Ashleigh located on Park Road; a driveway is located to the side of the property and leads to the stone garage attached to the rear of the property.

The garage is accessed via the side of the dwelling and currently used for domestic storage and parking.

The application site is located in Buxton, within a residential area.

PROPOSAL

An application for a Lawful Development Certificate (LDC) assessed under Section 192 of the Town and Country Planning Act 1990 (as amended). The applicant seeks confirmation that the proposed conversion of the attached garage into additional living accommodation at the above address is lawful and does not require express planning permission.

Conversion of the garage into bedroom with ensuite, with internal door into the house and also external door.

Works include external alterations and insertion of rooflights/windows/doors.

No enlargement of the building footprint or increase in height is proposed.

The use will remain ancillary to the enjoyment of the dwellinghouse.

SITE HISTORY

HPK/2022/0056 Proposed detached garage building with habitable accommodation at first floor – Appeal allowed APP/H1033/W/22/3305275

OFFICER COMMENTS

The development proposes conversion of the attached garage to a bedroom with ensuite and its own external door. This can be used as ancillary residential accommodation or function as a residential annexe but interdependent with the main house.

In order for the primary living accommodation to be regarded as 'ancillary' to an existing dwellinghouse is dependent on who occupies the accommodation and the reliance of those occupants on the existing dwellinghouse for their day-to-day needs.

The ancillary primary living accommodation together with the existing dwellinghouse must still fall under the definition of a Class C3(a) dwellinghouse, as outlined in the Use Classes Order and therefore it must be occupied as a whole by: 'a single person or family (a couple, whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.'

Not Development

Proposed is a change of Use of an existing building, attached to the main house, within a Residential Curtilage to create ancillary primary living accommodation.

If there is an existing garage, such as this, within the residential curtilage of a dwellinghouse and the building is already lawfully 'residential' in use (e.g. incidental), a change of use from storage/garage to ancillary 'residential' use is not deemed to be development under Section 55 of the Town & Country Planning Act 1990 (the Planning Act).

Section 55(2)(d) of the Act states:

'The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land:

(d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such' (providing it doesn't result in the creation of a separate planning unit) as it would still fall within the primary use as a dwellinghouse.

Planning permission would be required if:

the conversion of an existing building would be self-contained with all the necessary day-to-day living facilities and would not be occupied by a family member – which is not proposed, as it has a doorway connection into the main house and is only a bedroom with ensuite.

With respect to the proposed external changes Section 55 5 (a) states that:

The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

(a) the carrying out for the maintenance, improvement or other alteration of any building or works which—

- (i) affect only the interior of the building, or
- (ii) do not materially affect the external appearance of the building,

In this case it is proposed to remove the existing garage doors and replace them, with a horizontally proportioned window and a separate door and window. Overall the width of these elements would be the same as the existing garage doors. The only change would be the building up of the elevation to meet the sill level of the new windows. It is considered that this does not amount to a material change which would affect the external appearance of the whole building.

It is noted that the site also lies within an area covered by an Article 4 direction which removes permitted development in respect of Classes A and C of the Town and County Planning (General Permitted Development) Order 2015. However, for the above reasons it is considered that the insertion of windows and a door do not amount to “development” and therefore the effect of the Article 4 direction is not triggered.

However the plans show the provision of two roof lights, which are considered to amount to a change to the external appearance of the building due to insertion of windows into an otherwise blank roof slope. They would only require planning consent, by virtue of the Article 4 direction, if they located on a roof slope which fronts a “relevant location.” A relevant location is defined within the Article 4 direction as a highway, waterway or open space. In this case the roof lights would face towards the common rear garden boundary with number 155, and not therefore a relevant location. Moreover in terms of Class C of Part 1 of the GPDO, the insertion of the roof lights would not breach any of the criteria listed under C.1.

CONCLUSION / PLANNING BALANCE

For the reasons outlined above, so long as the planning unit “157 Ashleigh” remains in single family occupation, no material change of use is involved.

The conversion would not comprise development, providing:

- a separate planning unit isn’t created (i.e. the separateness and independence of the building and its occupants will need to be considered);
- the building is located within the residential curtilage of the dwellinghouse; and
- any existing planning conditions would not be breached (e.g. if the outbuilding has been restricted for the parking of motor vehicles, or if a condition restricts the insertion/alteration of existing windows or doors).

The proposed use, internal works and fenestration alterations are not deemed to be development under Section 55 of the Town & Country Planning Act 1990 (the Planning Act). Although the roof lights do amount to “development” they do not require planning permission due to their location on the roof slope and compliance with Part 1, Class C of the GPDO.

OFFICER RECOMMENDATION: **Issue a POSITIVE Certificate**

Case Officer: Pet Twigg

Recommendation Date: 16.12.2025

X 

Signed by: Jane Colley Signature

On behalf of High Peak Council