DELEGATED DECISION REPORT

SMD/2018/0680 **Valid 16/11/2018**	**10 BLACKBIRD WAY** **BIDDULPH**	**CERTIFICATE OF LAWFULNESS FOR A PROPOSED GARAGE DOOR CONVERTED TO BRICK AND WINDOW AND INTERNAL ALTERATIONS** **(CERTIFICATE OF LAWFULNESS - PROPOSED)**

MAIN ISSUES

- Would the proposed work be development?
- If so would the work be permitted development?
- Would the proposed use result in Material Change?
- Are there any other restrictions or limitations that mean the work would be unlawful?

DESCRIPTION OF SITE

A detached dwelling with integral single width garage. Located on a cul de sac with 16 other dwellings, all built around the early 1990s as part of the Mark Coupe estate.

PROPOSAL

To convert the interior space of the integral garage to provide a dining room and the replacement of the up and over garage door with new brick work and a window that would match those used in the construction of the dwelling.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

94- 1031 - Full permission for 16 dwellings plots 162-177, Culd de Sac 4. Approved.

CONSULTATIONS

Publicity

Dwellings either side and two opposite notified in writing. Neighbour consultation period ends: 10th December 2018.

Public Comments

None

Town / Parish Comments

Awaited

OFFICER COMMENTS

Would the proposed work be development?

Much of the work would involve only internal conversion work that would affect only the interior of the building, where this is the case s55(2)(a)(i) makes it clear that this type of work shall not be taken to be development for the purposes of the Act.

However, the work does also include alterations that would affect the external appearance of the dwellings frontage in that the up and over garage door would be replaced with brick work and a new window. This is work that specifically shall be taken to be development.

If so would the work be permitted development?

The works affecting the external appearance of the dwelling and thereby resulting in development would be alterations permitted by Class A, Part 1, Schedule 2 of the General Permitted Development Order. This is because the status of the property as a dwellinghouse does not result from a change of use permitted by any class at Part 3 of the GPDO; the works do not involve an enlargement of the dwelling; they affect only the ground floor and do not introduce any new eaves; and with the use of materials that match those used in the construction of the dwelling the condition at A.3(a) of the GPDO would be complied with.

Would the proposed use result in Material Change?

The primary use of the planning unit (i.e. the property owned by the applicants) is that of a single dwelling house (Class C3 of the Use Classes Order) the use of the garage space as a new dining room would see the use remain as part of that primary use and not have resulted in a material change that would require planning permission.

Are there any other restrictions or limitations that mean the work would be unlawful?

Sometimes when planning permission is granted for a dwelling with an integral garage it is subject to a condition that requires the garage space to be retained as such and made available for parking in perpetuity. In those cases proposed work of a type described in this application would not be immune from enforcement action because action could be taken in respect of a breach of condition.

However, the dwelling was granted full planning permission as one of 16 others along the Blackbird Way cul-de-sac in 1995. The decision notice relating to this permission has been located in the archived records - 94- 1031. It has been established that this permission was not granted subject to any condition or limitation that requires the garage space to be only used and made available for the parking of

a car and that the provisions at Class A, Part 1 of Schedule 2 of the GPDO are unaffected.

CONCLUSION

The proposed works and use would have been lawful on the date of the application because enforcement action could not have been taken in respect of them. The use and interior works would not have been development at all and the works affecting the external appearance would be alterations to a dwellinghouse permitted by Class A, Part 1, Schedule 2 of the GPDO 2015.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst
Recommendation Date: 17/12/2018

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council