DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

Ref No: ST/0232/22/CLP
Proposal: Application for a Lawful Development Certificate for a proposed loft conversion with rear dormer.
Location: 69 Ullswater Gardens
South Shields
NE34 0PS

This application is for a Lawful Development Certificate for a proposed loft conversion with rear dormer at 69 Ullswater Gardens, South Shields. The application site is a semi-detached bungalow.

The submitted application form states that the grounds for the Certificate being granted for the proposal are as follows: *'The existing use of the property is residential (C3) and the proposed development would not alter the existing use class.'*

The Lawful Development Certificate has therefore sought to demonstrate that the proposed dormer would be able to benefit from Permitted Development (PD) by virtue of Class B of Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2015.

The proposed rear dormer would project 3.45m to the external wall and the width would measure 8.2m wide. The flat roof height would measure 2.43m high and it would be no higher than the existing highest part of the roof. The roof enlargement would not overhang the outer face of the wall of the original house and there would be no windows along the side elevations. The dormer would be set back at least 20cm from the original eaves and the materials would be similar in appearance to the existing house. The volume of the new dormers have been calculated at 34.37m³ from the submitted plans.

Relevant Planning History

No planning history

Publicity / Consultations

N/A

Assessment

Section 192 (1) of the Town and Country Planning Act 1990 states that with regard to a lawful development certificate for a proposed use or development, if any person wishes to ascertain whether any proposed use of buildings or other land, or any operations proposed would be lawful, they may make an application for the purpose to the Local Planning Authority, specifying the land and describing the use or operations in question.

If the Local Planning Authority is provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

A certificate shall:
a) specify the land to which it relates;
b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under Section 55(2)(f), identifying it by reference to that class);

c) give the reasons for determining the use or operations to be lawful; and
d) specify the date of the application for the certificate.

The lawfulness of any use or operations for which a Certificate is in force, shall be conclusively presumed unless there is a material change in any of the matters relevant to determining such lawfulness.

The applicant has applied for a Lawful Development Certificate as they would like the Council to make a statutory decision on the proposed building operations consisting of the erection of a dormer loft extension to the rear elevation. If proven the Lawful Development Certificate would confirm that the proposed development may be built as permitted development and therefore not require planning permission, in accordance with the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Unlike planning applications, there is no statutory requirement for Councils to notify neighbours with regard to an application for a Lawful Development Certificate. Furthermore, Central Government Guidance (Planning Practice Guidance) on applications for Lawful Development Certificates states that "views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application." This is because the Council is simply being asked through this Lawful Development process to confirm that the proposed development may be built as permitted development.

Central Government Guidance (Planning Practice Guidance) further states that "a Local Planning Authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process."

Class B of Part 1 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) provides permitted development rights for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Development is not permitted by Class B if—

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

(b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;

(c) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;

(d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than -

(i) 40 cubic metres in the case of a terrace house, or
(ii) 50 cubic metres in any other case;

(e) It would consist of or include -

(i) the construction or provision of a verandah, balcony or raised platform, or
(ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or

(f) the dwellinghouse is on article 2(3) land.

In addition, Condition B.2 to Class B of Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2015 states that development is permitted by Class A subject to the following:

(a) the materials used in any exterior work (other than materials used in the construction of a conservatory) shall be a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

(b) the enlargement must be constructed so that -

(i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension -
(aa) the eaves of the original roof are maintained or reinstated; and
(bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and

(ii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and

Given the dimensions of the proposed dormer, the proposed development would not exceed the limitations within Class B of Part 1. All external materials would be of a similar appearance to those used in the construction of the existing dwellinghouse. The development would be set off the eaves of the original roof by 0.2 metres. The cubic content of the resulting roof space would not exceed 50 cubic metres more than the cubic content of the original roof space.

The proposals include the alteration of an existing soil vent pipe but the alterations proposed, whilst not permitted development under Class B would be permitted development under Class G.

Based upon the submitted information, the proposed building operations would benefit from the Permitted Development provisions under Classes B and G of Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and may be carried out on site without planning permission being required from the Local Planning Authority.

It is therefore recommended that this Lawful Development Certificate for proposed development be granted permission. An informative to the applicant is recommended to state Condition and B.2 (a and b).

In assessing this application due regard has been had to the requirement of section 149 of the Equality Act 2010.

Recommendation

Grant Permission No Conditions

Informatives

1 NOTE TO APPLICANT

The proposed erection of the dormer loft extension to rear elevation and associated soil vent pipe alteration would constitute permitted development by virtue of Classes B and G of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England)

Order 2015 subject to the conditions B.2(a and b) that:

- the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

- the enlargement must be constructed so that--
    - the eaves of the original roof are maintained or reinstated; and
    - the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and

- no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse.

List of approved plans for standard note

Plan Reference

Sheet 2 (Proposed Plans) - Received 18/03/2022
Sheet 3 (Proposed Elevations) - Received 18/03/2022

Case officer: Emma Thomas
Signed: Emma Thomas
Date: 06/05/2022

Authorised Signatory: Geoff Horsman
Date: 10/05/2022

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