

DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

Ref No: ST/0187/23/CLP
Proposal: Application for a Lawful Development Certificate for the proposed construction of an extension to the rear of the property
Location: 72 Adair Way
Hebburn
NE31 2BZ

The proposal

This application is for a Lawful Development Certificate for a 2.8m deep single storey rear extension at no. 72 Adair Way, Hebburn. The application site is a detached dwelling.

Part 5 of the submitted application form states that the grounds for the Certificate being granted for the proposal are as follows: *'The class of the building will not change and it will remain a dwelling. The extension would conform to permitted development rights'*

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

The proposed single storey rear extension would measure a depth of 2.8m, a width of 3.7m, a ridge height of 3.4m and eaves height of 2.4m. The pitched roof would host 2 no. roof lights and the rear elevation would host bi-fold doors. The submitted application form states that the extension would be constructed from materials to match the host dwelling.

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 proposed single storey rear extension. If proven the Lawful Development Certificate would confirm that the proposed rear extension 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 A of Part 1 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) provides permitted development rights for the provision within the curtilage of the dwellinghouse of any enlargement, improvement or other alteration of a dwellinghouse. In relation to rear extensions, development is not permitted by Class A (in so far as is relevant to this application) if —

(b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

(f) the enlarged part of the dwellinghouse would have a single storey and
i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or
ii) exceed 4 metres in height;

(j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—
(i) exceed 4 metres in height,
(ii) have more than a single storey, or
(iii) have a width greater than half the width of the original dwellinghouse;

In addition, Condition A.3 to Class A 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

Given the dimensions of the proposed rear extension, and the total area of ground covered by buildings within the curtilage of the dwellinghouse, the proposed development would not exceed the limitations

within Class A of Part 1. All external materials would be of a similar appearance to those used in the construction of the existing dwellinghouse.

Based upon the submitted information, the proposed rear extension would benefit from the permitted development provisions under Class A 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 A.3(a).

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 single storey rear extension would constitute permitted development by virtue of Class A of Part 1 of The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2015 [as amended] subject to the condition A.3(a) 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.

List of approved plans for standard note

Plan Reference

Drg No.199.P1 Rev A received 16/03/2023

Drg No.199.P2 received 16/03/2023

Case officer: Adam Williamson

Date: 28/04/2023

Authorised Signatory:

Date: