DELEGATED REPORT / CASE OFFICER'S ASSESSMENT

Ref No: ST/0066/24/CLP
Proposal: Dormer loft conversion
Location: 55 Felton Avenue
South Shields
South Tyneside
NE34 6RY

Site Visit Made – N/A

Relevant policies/SPDs – N/A

Description of the site and of the proposals

The application site is a semi-detached house located on Felton Avenue.

This application seeks a Lawful Development Certificate for the conversion of a loft with an addition of a flat roof dormer window to the rear roof slope.

The submitted application form states that the grounds for the certificate being granted for the proposal are that the development would constitute permitted development.

The lawful development certificate has therefore sought to demonstrate that the proposed works would be able to benefit from permitted development (PD) by virtue of Class B of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2015.

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 operations consisting of conversion of loft with an addition of a dormer window to the rear roof slope. If proven the Lawful Development Certificate would confirm that the proposed works would be 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 works may be undertaken 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.”

In relation to buildings etc incidental to the enjoyment of a dwellinghouse, Schedule 2, Part 1 Class B of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2015 (GPDO) states that the enlargement, improvement or other alteration of a dwellinghouse is permitted development. However, 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);

This is not the case

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

The proposal would not exceed the highest part of the 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;

The proposal would not be situated forward of a wall forming the principal elevation

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;

The proposal dormer would have a cubic content of 24.75m.

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

The proposal would not include the above elements

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

The dwellinghouse is not located on article 2 (3) land

Conditions

B.2 Development is permitted by Class B subject to the following conditions—

(a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

The proposed materials would match 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

The proposal would be located 0.2m from the eaves.

(c)any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be—

(i)obscure-glazed, and

(ii)non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

No windows are proposed in the side elevation and the windows are non-opening

Based upon the submitted information, the proposed building operations would benefit from the permitted development provisions under Class B of Schedule 2, 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 the proposed development be granted permission.

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 For the avoidance of doubt, this decision relates to the following plans:
Proposed 3D View Drg No A204 received 01.02.24
Proposed Elevations Drg No A202 received 01.02.24
Proposed Ground and First Floor Plan Drg No A200 received 01.02.24
Proposed Roof Section Drg No A203 received 01.02.24
Proposed Second Floor Plan Drg No A201 received 01.02.24

Case officer: DR
Signed: DR
Date: 20/03/2024

Authorised Signatory: Seán Gallagher
Date: 28/03/2024