

DELEGATED HOUSEHOLDER APPLICATION REPORT

Ward: Redlands

App Ref: 221784/CLE

Address: 32 Ashampstead Road, Reading, RG30 3LA

Proposals: Certificate of Lawfulness for existing rear dormer (amended)

Case Officer: Mrs Alison Amoah

Applicant: Mr L Merra

Date received (valid from): 18th January 2023 **Target Decision date:** 15th March 2023

1. SITE DESCRIPTION

The application site relates to an end of terrace, two storey dwelling with an existing rear facing flat roof box dormer (within the roof of the original dwelling). A recent two storey side extension has been constructed.

2. PROPOSAL AND SUPPORTING INFORMATION

The applicant is applying for a CLUED on the basis that the dormer loft extension would not have required planning permission as it would comply with the limitations and conditions within the General Permitted Development Order under Class B, Part 1, Schedule 2, which relate to 'additions etc to the roof of a dwellinghouse' and 'other alterations to the roof of a dwellinghouse'.

The original submission included the front porch, but the agent was advised by email of 23/1/23 that this is larger than permitted development limits and that a period of 4 years has not elapsed. The agent confirmed the removal of this element of the CLUED in email 4/4/23.

Plans and other information considered:

- Location Plan, Received 30th November 2022
- As Built Drawing, dated November 2022 [Elevations], received 30th November 2022
- Section Through New Loft and House [Scale 1: 100 not 1:50 as shown], received 18th January 2023
- Letter from agent dated and received 18th January 2023

3. RELEVANT PLANNING HISTORY

211106/HOU - 2 storey side extension - Approved 1/4/2022

4. CONSULTATIONS

Planning Enforcement: Enforcement case regarding side extension works not in accordance with permission 211106 - case closed.

Legal: Confirm that the dormer is lawful under Class B PD right.

5. LEGAL AND PLANNING POLICY CONTEXT

Section 10 of the Planning and Compensation Act 1991 established a procedure that enables anyone who wishes to do so, to apply to the local planning authority to determine whether a proposed use or operation, or an existing operational development or an existing use of land, or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, is lawful, and if so, be granted a certificate to that effect.

A Lawful Development Certificate is a legal document stating the lawfulness of past, present or future development. If granted by the local planning authority, the certificate means that enforcement action cannot be carried out to the development referred to in the certificate.

However, the certificate will not protect from enforcement action by the planning authority if the specified use or development is then changed 'materially' without a planning application for it.

The certificate is not a planning permission. The planning merits of the use, operation or activity in the application are not relevant. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The responsibility is on the applicant to provide evidence to support the application.

The NPPG states that “*The applicant is responsible for providing sufficient information to support an application. In the case of applications for existing use (section 191 of the Town and Country Planning Act 1990), if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability*”.

Other relevant policy and guidance are:

- Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (as amended).
- Permitted development rights for householders - Technical Guidance September 2019

6. APPRAISAL

In order for the certificate to be granted, it needs to be demonstrated that the dormer loft extension falls within the permitted development rights of the property.

The existing dormer must be assessed to ensure that it complies with the conditions of Class B, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which relate to ‘additions etc to the roof of a dwellinghouse’ and ‘other alterations to the roof of a dwellinghouse’.

The relevant conditions of the GPDO for an existing rear dormer, for a property which is not listed nor in a conservation area, are as follows:

B.1 Development is not permitted by Class B if:

B.1 (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); **complies**

B.1 (b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof; **complies**

B.1 (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; **complies**

B.1 (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, **complies, the additional volume of roof space created was 20.7 cubic metres - using submitted drawings (calculated as 28.63 cubic metres by the agent - contained within submitted letter dated 18/1/23)** (ii) 50 cubic metres in any other case; **n/a.**

B.1 (e) it would consist of or include (i) the construction or provision of a veranda, balcony or raised platform, **complies** or (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe; **complies** or

B.1 (f) the dwellinghouse is on article 2(3) land. **complies**

Conditions

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

B.2 (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; **complies**

B.2 (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; **complies** 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; **complies** 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; **complies** and

B.2 (c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be **n/a** (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.

Interpretation of Class B

B.3 For the purposes of Class B, “resulting roof space” means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not.

B.4 For the purposes of paragraph B.2(b)(ii), roof tiles, guttering, fascias, barge boards, and other minor roof details overhanging the external wall of the original dwellinghouse are not to be considered part of the enlargement.

7. RECOMMENDATION

GRANT Certificate

The proposal has been assessed against the Town and Country Planning Act 1990 (as amended) and Class B, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. It can be confirmed that the dormer loft extension is lawful for planning purposes on the basis of the following drawings:

- Location Plan, Received 30TH November 2022
- As Built Drawing, dated November 2022 [Elevations], received 30th November 2022
- Section Through New Loft and House [Scale 1: 100 not 1:50 as shown], received 18th January 2023

Sufficient evidence has been provided to demonstrate that a Certificate of Lawfulness should be granted for the existing dormer loft extension. Therefore, the Local Planning Authority can issue the applicant with a Certificate of Lawfulness for the existing development.

Location Plan

