

DELEGATED PLANNING APPLICATION REPORT

Ward: Caversham

App Ref: 231135/CLE

Address: 93 Blenheim Road, Reading, RG4 7RP

Proposals: Single storey rear extension

Case Officer: Mr Ryan Allen

Date received (valid from): 11 August 2023 Target Decision date: 08 December 2023

Site Description and Surrounding Area

The proposal site is a two-storey semi-detached dwelling along Blenheim Road, Caversham. The immediate surrounding area is residential and the property itself is not listed, nor is it situated within a conservation area.

Description of Use or Development

The existing development is a single storey ground floor rear extension and is ancillary to the dwellinghouse.

Relevant Planning History

None

Relevant Planning Policy and Guidance

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 is 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 planning permission. The planning merits of 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 applicants version of events less than

probable, there is no good reason to refuse the application, provided the applicants evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability’.

Consultations

Reading Borough Council, Legal - RE: CLE application 231177 - 93 Blenheim Road, Caversham

I have reviewed the above named application and have considered the evidence to ascertain whether this is lawful development under Section 191 of the Town and Country Planning Act 1990.

Section 191 (2) sets out that uses and operations are lawful at any time if:

- a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and*
- b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.*

It is my understanding that no planning permission was issued for this property. However, it is worth noting that the development could possibly fall within permitted developments rights. Whilst we have not received enough evidence to confirm this, it is important to be aware of.

On the balance of probability, the building regulation certificate dated the 15 October 2014 evidences that the development has been substantially completed for a period exceeding 4 years, and as such this constitutes lawful development under s191.

This is on the basis that no enforcement notice has been issued, as per s191(3A), which sets out why this would prevent the development from being granted a certificate:

Section 191 (3A)

In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—

- a) the time for applying for an order under section 171BA(1) (a “planning enforcement order”) in relation to the matter has not expired,*
- b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or*
- c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.*

From your instructions it does not appear that there has been any consultations with the Enforcement Team. I would therefore recommend that we check to ensure that there is no active enforcement notice as this would prevent the development becoming lawful and therefore prevent the granting of the certificate.

Provided there is no open enforcement notice, then I agree that a certificate is to be granted for the development.

Reading Borough Council, Planning Enforcement - No record.

Submitted Evidence

The applicant provided the following documents to evidence the extension's existence exceeding 4 years:

- Existing' (prior to implementation) floor and elevation plans - dated 11/07/14
- Proposed (implemented) floor and elevation plans - 11/07/14
- Historic Photographs of 93 Blenheim Road, Caversham, Reading, RG4 7RP - dated 04/07/14, 24/08/14 & 05/09/14
- Location Plan - dated 23/08/23
- Requisite Building Control Completion Certificate - 15/10/14
- Application Form

Assessment

In order for a certificate of lawfulness to be granted for this application, the applicant must demonstrate that the building works were substantially completed more than four years before the date of this application (11/08/2023).

The historical aerial photographs provided are considered to sufficiently demonstrate that the building works were sustainably completed more than four years before 11/08/2023. The LPA has no sufficient evidence to the contrary to prove otherwise.

Recommendation

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On the basis of the available evidence and on the balance of probabilities, it is considered that a ground floor extension has been substantially completed at the site for a period exceeding 4 years and is therefore immune to enforcement action. It is therefore considered a Certificate of Lawfulness should be granted.

Informatives to be stated on the decision notice

As per NPPF Planning Practice Guidance - Lawful Development Certificates (Paragraph 004 ID: 17c-004-20140306) this certificate applies only to the lawfulness of the development in accordance with planning legislation. It does not remove the need to comply with any other legal requirements such as Building Regulations.

In reaching this decision, the local planning authority has taken into account the following information submitted by the applicant:

Existing' (prior to implementation) floor and elevation plans - dated 11/07/14
Proposed (implemented) floor and elevation plans - 11/07/14
Historic Photographs of 93 Blenheim Road, Caversham, Reading, RG4 7RP - dated 04/07/14, 24/08/14 & 05/09/14
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