

DELEGATED APPLICATION REPORT

Ward: Abbey

App Ref: 200684/CLE

Address: 16 De Montfort Road, Reading, RG1 8DL

Proposals: Certificate of Lawfulness for existing Single storey rear extension (conservatory).

Case Officer: Mr David Brett

Applicant: Mr David Lynch

Date received: 18/05/2020

Valid from: 26/05/2020

Target Date: Extension agreed from 21/07/2020 to 31/07/2020

Site Description and Surrounding Area

The proposal site is a two-storey terrace dwelling along De Montfort Road. De Montfort Road is located off Vastern Road. 16 De Montfort Road is within flood zone 3. The immediate surrounding area is residential, while south of the proposal site is the IDR and retail park. The proposal site is approximately 100m away from the bank of the River Thames.

Description of Use or Development

The existing development is a single storey ground floor rear and side 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 - Response received on 28/07/2020

- In agreement with the officer recommendation for this application.

Submitted Evidence

The applicant provided the following statement regarding the existing single storey rear and side extension:

- *“The structure was erected in excess of 4 years ago. The year of construction is not known but the previous owners of the property stated in November 2019 that it was constructed 25 years previously.*
- *Photographic evidence of its existence can be found via google earth which confirms it was in place by 2003.*
- *It can also be seen on the illustrative proposals modelling plan on page 80 of the Council's Reading Station Area Framework adopted in December 2010.*
- *Whilst these are solely aerial photos it can be seen that it wrapped around the existing two storey rear element and was of single storey height.*
- *Informally both immediate neighbours, who have been in residence for over 10 years, have confirmed that it has been there for over 10 years, hence more than the required 4 years.*
- *One neighbour noted in writing, that it was constructed in 1994, this accords with the property's previous owners statement. Its form (scale, height, dimensions) has not altered since it was constructed although it is believed that a replacement roof (corrugated plastic) was installed within the last 18 months.”*

Historical aerial photos have also been provided to support this application (document received on 18/05/2020). The document provided includes aerial photos taken in 2003, 2005, 2010, 2017 and 2018.

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 (18/05/2020).

The historical aerial photographs provided are considered to sufficiently demonstrate that the building works were sustainably completed more than four years before 18/05/2020. With regards to the replacement roof and raised decking as demonstrated on the plans it is considered that these works do not dramatically alter the appearance of, size or scale of the single storey rear and side extension. A canopy element as demonstrated on the existing plan provided appears to have been

added later and extends 930mm from the eaves. In the context of the existing extension, the canopy is not considered a substantial alteration.

Recommendation

Grant

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:

Historic Aerial Photographs of 16 De Montfort Road, Reading RG1 8DL
Location Plan
Block Plan on 10/07/2020
Existing Plan 1281/1
Application form

