

Development Management Delegated Decision Report

B/21/0314



SUMMARY OF APPLICATION

Application Reference	B/21/0314		
Application Type	Certificate of Lawfulness (proposed use)		
Proposal	Application for a Certificate of Lawfulness to confirm that the proposed changes to the windows, doors and the installation of external insulation are lawful		
Location	9, Almond Walk, Boston, Lincolnshire, PE21 8HJ		
Applicant	Dawid Drapala		
Agent			
Received Date:	29-Jun-2021	Consultation Expiry Date:	
Valid Date:	12-Jul-2021	Statutory Expiry Date:	06-Sep-2021
Date of Site Visit:	19-Aug-2021	Extension of Time Date:	N/R
Objections received?	None		
5 day notification record: N/A			
Councillors notified	Date	Response received – date	Ok to continue
Recommendation	That a Lawful Development Certificate be issued.		
Report by:	Emma Dennis		
Date:	19/08/2021		

OFFICER REPORT

SITE AND SURROUNDINGS:

The application site consists of a two-storey-semi-detached property located on the northern side of Almond Walk. The existing property is constructed in red facing brick with white UPVC windows and doors. The property is one of 12 of similar design and size while the rest of the street is a combination of bungalows and detached properties.

DETAILS OF PROPOSAL:

The application seeks a Lawful Development Certificate for the:

- Replacement of all windows and doors in the property;
- Installation of external insulation on the three external walls of the semi-detached property, this will include a red-brown brick finish which will be a similar colour to the existing brick.

The works proposed are solely to insulate the property.

Fundamentally, the application seeks confirmation that the proposed works are allowed under permitted development rights.



RELEVANT HISTORY:

There is no relevant history on this site.

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

South East Lincolnshire Local Plan (2011-2036)

An application for a Lawful Development Certificate is not a 'planning application' in the normal sense, and an assessment against the provisions of the development plan is not required.

OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:

Town and Country Planning Act 1990

Section 192 of the Town and Country Planning Act 1990 states that:

"If any person wishes to ascertain whether—

(a) Any proposed use of buildings or other land; or

(b) Any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

If, on an application under this section, the local planning authority are 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."

National Planning Practice Guidance (PPG)

Paragraph: 009 Reference ID: 17c-009-20140306 of the Planning Practice Guidance indicates:

"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 determining an application for a prospective development under section 192 a local planning authority needs to ask "if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?"

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

The relevant legislation in respect of this application is Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). This legislation states that development is not permitted where:

- *The materials used in any exterior work (other than materials used in the construction of a conservatory) shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;*

The Technical Guidance for Permitted development rights for householders states “...The installation of solid wall insulation constitutes an improvement rather than an enlargement or extension to the house and is not caught by the provisions of (e), (f), (g), (h) and (j)...”

It goes on to indicate that *any window located in a wall or roof slope forming a side elevation of the dwellinghouse shall be—*

(a) obscure-glazed; and

(b) 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.

CONSULTATION RESPONSES:

Cadent Gas have stated they would not object as the intermediate and high pressure gas pipelines in the area would not be affected by the proposal.

THIRD PARTY REPRESENTATIONS RECEIVED:

No third party representations have been received.

EVALUATION:

An application for a Lawful Development Certificate is not a planning application in the normal sense, in that the planning merits and assessment against the Development Plan are not relevant. Essentially, the question to be asked is whether the proposed development is lawful without needing any further planning permission. A development is ‘lawful’ if no enforcement action may be taken by the authority. The matters to be determined are solely issues of evidence and law.

The proposed works comprise:

- Replacement of all windows and doors in the property;
- Installation of external insulation on the three external walls of the semi-detached property, this will include a red-brown brick finish which will be a similar colour to the existing brick.

The house is not located within a Conservation Area, an Area of Outstanding Natural Beauty and is not a Listed Building.

Looking at each of the proposed works in turn, the submitted details show that:

- The replacement windows will match the existing in terms of size and materials; and
- The external facing brick slips will be of a similar appearance to those in the construction of exterior of the existing house.

Given there are no planning conditions removing permitted development rights for the property and within the respective curtilage, it is considered the proposed work does not require planning permission.

CONCLUSION:

It is considered that the proposed development (according to the submitted details) is permitted development and are therefore lawful by virtue of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

RECOMMENDATION:

It is recommended that a Lawful Development Certificate be issued.

Based upon the information submitted in the application form and the following documents:

- Plan 1 – Location Plan
- Plan 2 – Block Plan
- Plan 5 – proposed elevations
- Plan 6 – colour of elevation
- Plan 7 - Specification of Materials
- Colour of windows LDC
- Image of front door LDC
- Confirmation of proposal

the Council is satisfied that the proposed replacement window and doors and the external insulation proposed at 9 Almond Walk, Boston, Lincolnshire, PE21 8HJ is permitted development under Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015.