

# Development Management Delegated Decision Report

B/21/0383



## SUMMARY OF APPLICATION

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Application Reference	B/21/0383		
Application Type	Certificate of Lawfulness (proposed use)		
Proposal	Application for a Lawful Development Certificate to confirm that the proposed single storey side and rear extension of existing dwelling house is lawful		
Location	20, Linley Drive, Boston PE21 7EJ		
Applicant	Mr Matthew Baumber		
Agent			
Received Date:	17-Aug-2021	Consultation Expiry Date:	N/A
Valid Date:	17-Aug-2021	Statutory Expiry Date:	12-Oct-2021
Date of Site Visit:	08-Oct-2021	Extension of Time Date:	---
Objections received?	None		
5 day notification record: Not applicable			
Councillors notified	Date	Response received – date	Ok to continue
Recommendation	That a Lawful Development Certificate is issued.		
Report by:	Megan Epton		
Date:	11-Oct-2021		

## OFFICER REPORT

### SITE AND SURROUNDINGS:

The site is located to the south of Linley Drive, Boston and contains a detached, two storey dwelling, with a single-storey flat-roofed element (providing a utility room and a garage) and large domestic garden. The site is surrounded by dwellings on all sides.

### DETAILS OF PROPOSAL:

The application seeks a Lawful Development Certificate for the construction of a single storey, flat-roofed side extension and single-storey pitched roof rear extension.

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

### RELEVANT HISTORY:

No relevant history.



## **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?"*

## **CONSULTATION RESPONSES:**

No consultation responses have been received.

## **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:

- the erection of a single storey flat-roofed side extension;
- the erection of a single storey pitched roof rear extension.

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) for "*the enlargement, improvement or other alteration of a dwellinghouse*". The particular provisions of Class A which are relevant to this proposal are found in sections A1 and A3.

Section A1 indicates that development is **not** permitted by Class A if:

- "permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P Pa or Q of this Schedule (changes of use)" - this does not apply in this case;*
- "as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)" – the proposal does not exceed these parameters;*
- "the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse" - the proposal does not exceed these parameters;*
- "the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse" – the proposal does not exceed these parameters;*
- "the enlarged part of the dwellinghouse would extend beyond a wall which—
  - forms the principal elevation of the original dwellinghouse; or*
  - fronts a highway and forms a side elevation of the original dwellinghouse"* – the proposal does not breach these parameters;*
- "subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—
  - extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or*
  - exceed 4 metres in height"* – the proposal does not exceed these parameters;*
- "for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—
  - extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or*
  - exceed 4 metres in height"* – the proposal does not exceed these parameters;*
- "the enlarged part of the dwellinghouse would have more than a single storey and—
  - extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or**

- (ii) *be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse* – **the proposal is single-storey only;**
- i) *“the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres”* - **the proposal does not exceed these parameters;**
- j) *“the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—*
  - (i) *exceed 4 metres in height,*
  - (ii) *have more than a single storey, or*
  - (iii) *have a width greater than half the width of the original dwellinghouse”* – **the proposal does not exceed these parameters;**
- ja) *“any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j) – the proposal does not breach these parameters;*
- k) *“it would consist of or include—*
  - (i) *the construction or provision of a verandah, balcony or raised platform,*
  - (ii) *the installation, alteration or replacement of a microwave antenna,*
  - (iii) *the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or*
  - (iv) *an alteration to any part of the roof of the dwellinghouse”* – **the proposal does not include any of these alterations.**
- l) *the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses) – the proposal does not breach these parameters;*

Section A3 indicates that *“development is permitted by Class A subject to the following conditions”*

- a) *“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”* – **Drawing Number ‘B1: Plans, Elevations and Sections’ indicates that the extension is to be built in materials “to match existing”;**
- b) *“any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse shall be:*
  - i) *obscure-glazed; and*
  - ii) *non-opening unless the parts of the window which can be opened are more than 1.7metres above the floor of the room in which the window is installed”* – **the proposal includes no upper-floor windows;**
- c) *“where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse”* - **the proposal is single-storey only.**

## **CONCLUSION:**

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

**RECOMMENDATION:**

It is recommended that a Lawful Development Certificate be issued.

Based upon the submitted information contained within the application form and Drawing Number 'B1 Plans, Elevations and Sections', the Council is satisfied that the erection of a single storey side and rear extension at 20, Linley Drive, Boston PE21 7EJ, is permitted development under Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015.