

Development Management Delegated Decision Report

B/24/0020



SUMMARY OF APPLICATION			
Application Reference	B/24/0020		
Application Type	Certificate of Lawfulness (proposed use)		
Proposal	Application for a Certificate of Lawfulness to confirm that a proposed single storey side extension is lawful		
Location	111, Sleaford Road, Boston PE21 8EY		
Applicant	Mr & Mrs Mitcham		
Agent	Mrs Jenny McIntee, Jenny McIntee Architecture		
Received Date:	16-Jan-2024	Consultation / Publicity Expiry Date:	13-Feb-2024
Valid Date:	16-Jan-2024	Statutory Expiry Date:	12-Mar-2024
Date of Site Visit:		Extension of Time Date:	
Objections received?	None		
5 day notification record:			
Councillors notified	Date	Response received – date	Ok to continue
Recommendation	That a Lawful Development Certificate be issued.		
Report by:	Emma Turvey		
Date:	11 th February 2024		

OFFICER REPORT

SITE AND SURROUNDINGS:

The application site consists of a two-storey dwelling located on the northern side of Sleaford Road, which is in the settlement of Boston. The site includes a front garden with off road parking, garage/outbuilding and a substantial sized rear garden which borders Boston Tennis Club and a bowling green. The site has residential dwellings either side.

DETAILS OF PROPOSAL:

This application is for a Certificate of Lawfulness for the construction of a single storey side extension to create a utility/shower room which measures 2.9m by 3.9m with a pitch roof height of 3.8m to ridge. It is proposed to use materials to match the existing dwelling.

RELEVANT HISTORY:

There is no relevant history on this site.



RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

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:

Lincolnshire County Council (Local Highway and Lead Local Flood Authority) does not wish to object to this planning application.

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 proposal is for the erection of a single storey side extension. The application was accompanied by the following documents:

- 23049 01 Location Plan
- 23049 02B Site Plan
- 23049 03B Existing Partial Floor Plan & Partial Elevations
- 23049 04C Proposed Extension Floor Plan
- 23049 05C Proposed Elevations
- Application form

The relevant legislation for 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.

A.1 Development is not permitted by Class A if –

- a) *"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;**
- b) *"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;**
- c) *"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;**
- d) *"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;**
- e) *"the enlarged part of the dwellinghouse would extend beyond a wall which—*
 - (i) *forms the principal elevation of the original dwellinghouse; or*
 - (ii) *fronts a highway and forms a side elevation of the original dwellinghouse"* – **the proposal does not breach these parameters;**
- f) *"subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—*
 - (i) *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*
 - (ii) *exceed 4 metres in height"* – **the proposal does not exceed these parameters;**
- (g) *"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—*
 - (i) *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*
 - (ii) *exceed 4 metres in height"* – **the proposal does not exceed these parameters;**
- h) *"the enlarged part of the dwellinghouse would have more than a single storey and—*
 - (i) *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”* – **Details on plan ref: 23049/05C confirm the materials will match the existing building as close as possible and will consist of red facing brick, natural roof slate and white PVCu windows with reconstituted stone cills to match existing house.**

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 – Not applicable.**

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 – Not applicable.**

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.