
Delegated report Officer: Holly Budworth

Application ref. DMPN/2022/0591

Certificate of Lawfulness for proposed single storey rear extension at 6 Wren Park Close, Findern, Derby, DE65 6QQ

Valid date: 29/04/2022

Consults expired: 01/06/2022

EIA development? No

Section 106 agreement? Not required

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

There is no planning history.

Responses to consultations and publicity

There have been no comments received.

Relevant policy, guidance and/or legislation

The relevant legislation is:

- Section 192 of the Town and Country Planning Act 1990
- Town and Country Planning General Permitted Development (England) Order 2015, Schedule 2, Part 1, Class A

The relevant National Guidance is:

- Planning Practice Guidance (PPG)
- Permitted development rights for householders Technical Guidance (September 2019)
- National Planning Policy Framework (NPPF)

Planning considerations

This application falls to be considered under Section 192 of the 1990 Act in that the development is claimed to be lawful by way of it not requiring express planning permission from the Local Planning Authority (LPA). The LPA 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. Whilst the onus is on the applicant to provide sufficiently precise and unambiguous evidence to justify the grant of a certificate, on the balance of probability, the Planning Practice Guidance (PPG) also states that if a LPA has no evidence itself, nor any from others, to contradict the applicant's case or make it less than probable, there is no good reason to refuse the application.

Planning assessment

This is a semi-detached dwellinghouse with its permitted development rights intact. The Town and Country Planning General Permitted Development (England) Order 2012, Schedule 2, Part 1, Class A (enlargement, improvement, or other alteration of a dwelling house), states conclusions to where development is permitted to those classes. The submitted plans show compliance with this legislation and can be shown as follows..

The proposals are to extend to the rear of the dwelling, erecting a single storey extension, with a flat roof and materials used will be to match the existing . 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 not exceed 50% of the total area of the curtilage. The proposals show approximately a 19.4% increase in ground floor space to the host dwelling. Including the garage, approximately 24.78% of the curtilage of the dwelling house has buildings within, due to the proposals, this will increase to approximately 28.30%, which demonstrates compliance with legislation. The height of the 'enlarged, improved or altered' part of the dwellinghouse would not exceed the height of the highest point of the

roof, or the eaves of the existing dwellinghouse, as the alterations are at ground floor level (not first floor level) so the highest point of the dwellinghouse will not be affected by the proposals.

The proposals do not form a principal elevation as the location of the proposals are to the rear/north and there are dwellings to the rear/north of the host, therefore there is no highway fronting the proposals. Being that the alterations are to a semi-detached dwellinghouse, the proposals need to extend beyond the rear wall within 3m, in order to fit under permitted development. The proposals extend beyond the rear wall under 3m, as required and are just under 2.93m. Additionally, the proposals are under 4m in height, as required by Class A (including the proposed roof light), measuring just under 2.8m high. Although the enlarged part of the dwellinghouse, on the western elevation would be within 2m of the curtilage of the dwellinghouse the height of the eaves would not exceed 3m as they are proposed to be just over 2.8m high and the proposals are just over 11.8m way from the rear of the curtilage.

Taking account of the above findings, on the balance of probability, the development is considered lawful.

Recommendation

Approve

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation made:	14/07/2022
Report agreed:	20/07/2022
Authorised officer:	Sarah Beeby
