

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development**REF NO:** K/22/15/CLP**LOCATION:** Broadbeach
39 Coastal Road
Kingston**PROPOSAL:** Application for a Lawful Development Certificate for proposed extensions to ground floor & alterations**DESCRIPTION OF APPLICATION**

This application indicates the following works at this dwelling:

1. An extension on the west side of this dwelling to replace an existing lean to structure and conversion of the existing integral garage into living accommodation. This extension would be 3m in height above ground level within the application site. The works would also involve the installation of insulation panelling on the front elevation of the new accommodation to replace the garage door and would include new windows. The extension would have a flat roof with 2 roof lights inset into the roof. It would be 6.4m deep along the boundary with no.41 adjoining.
2. An extension on the east side of this dwelling to replace an existing extension. This would also be 3m in height above ground level within the application site. The works would also involve the installation of a new garage door to serve the single garage to be formed. It would be 6.6m deep along the boundary with no.41 adjoining.

DESCRIPTION OF SITE AND SURROUNDINGS

The site is occupied by a dwelling of relatively post-modern design which has a flat

RELEVANT SITE HISTORY

K/33/97	Extension of existing tank/ store room located on roof	ApproveConditionally 19-12-1997
K/14/15/HH	Demolition of existing garage, side porch & roof level store & water tank & construction of a new side extension, new garage & second floor bedroom.	Withdrawn 10-07-2015
K/5/64	Outline application for detached house	ApproveConditionally 05-03-1964
K/4/68	Approval for two storey private dwelling	ApproveConditionally 21-03-1968

K/26/73	Alterations to entrance porch & cloakroom - Formation of additional bathroom on F F	ApproveConditionally 17-12-1973
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A previous planning application K/14/15/HH was withdrawn following revision in an attempt to meet the concerns of nearby and adjoining occupiers. The revised scheme also met with further objections, notwithstanding the revisions. The scheme included provision of accommodation in place of the roof level water tank housing.

The applicant has now opted to establish whether planning permission is required for the side extensions and considers that it is not required. The applicant intends to make a further application for the additional roof level accommodation in due course.

REPRESENTATIONS

Representations received:

Kinston Parish Council agrees with the objector at no.41 Coastal Road that planning permission is required as the proposals are not permitted development.

West Kingston Residents Association objects:

The Association objects to the repeated attempt at over development of this site. Building to the boundaries of properties is against the Covenants in the Deeds of each property and any person breaching the Covenant does so without the permission of the Association it is affiliated to. The proposals to redevelop this already considerably and recently rebuilt property are unnecessary and unneighbourly to the surrounding properties.

An objection (as referred to by the Parish Council) has been received from the occupier of no.41 adjoining on the following grounds:

We live next door to 39 Coastal Road and were among several objectors to the previous planning application on this property which was subsequently withdrawn. We note that the applicants have now submitted a request for a Certificate of Lawful Development to confirm that their latest plans (which are essentially the previous plans minus the addition of a third storey) are within the scope of Permitted Development.

However, we believe that the proposal should not be considered as Permitted Development because it contravenes Class A of Schedule 2 within the Town and Country Planning (General Permitted Development) (England) Order 2015 which relates to the "enlargement, improvement or other alteration of a dwelling house". Specifically, paragraph A.1 (k)(iv) of Schedule 2 states that: "Development is not permitted by Class A if it would consist of or include an alteration to any part of the roof of the dwellinghouse".

The flat roof at the front of the property is the smaller and lower of 2 flat roofs on the property and was part of the original property which was built in the late 1960s. This roof is approx. 2.6 metres in height and covers the porch, part of the interior entrance hall, and the front part of the integral garage including the garage door. The applicant proposes to raise the height of the part of this roof which is west of the porch to 3 metres as shown in the diagram of the "Proposed North Elevation". This clearly consists of an alteration to part of the roof, i.e. the application does not fall within the scope of Permitted Development.

Further clarification is provided by Class B of the Order which relates to "the enlargement of a dwelling house consisting of an addition or alteration to its roof". Class B.2 (k)(iv) states

that Development is permitted under Class B subject to: "other than the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original part of dwellinghouse".

In other words, our understanding of the 2015 Order is that it would be within the scope of Permitted Development for the applicant to EITHER raise the height of the original first floor roof from 2.6 metres to 3 metres and to not join this up with an extension to the west side of the house; OR to develop a west side extension of a height of 2.6 metres and join this to the original roof - but NOT to do both of these as is being proposed. One of our main objections to the previous proposal was that a structure directly against, further forward than current, and protruding above our dividing wall would spoil the easterly aspect of our property. If the applicants had submitted a proposal which included either one of the above options (but not both), we would not have had this concern and we would not have raised this objection.

Finally, if the applicants were to argue that the roof of the property should be defined as the flat roof covering the top of most of the property and that the smaller, lower roof should be discounted, this would imply that the principal elevation of the property is the two storey wall which comprises the other part of the front of the property. If this were adjudged to be the case, the proposal would then be to extend beyond a wall which forms part of the principal elevation which is also not allowed as Permitted Development by Class A.1 (e)(i) of the 2015 Order.

Therefore, whichever view is taken of this, we believe this is not Permitted Development according to the 2015 Order and that the certificate should be refused.

The objector has also made the following further representations, which included photographic illustration :

Further to the representation on the above planning application which we made via the website yesterday, we have attached a photograph to illustrate why we consider the proposals in the above planning application fall outside the scope of Permitted Development.

The existing flat roof above the porch, entrance hall and integral garage is part of the original property as constructed in the late 1960s. The applicants are proposing to replace part of this roof with a higher roof which extends to the side of the property as indicated.

The Planning Order 2015 relating to Permitted Development states that "Development is not permitted by Class A "if it would consist of or include an alteration to any part of the roof of the dwellinghouse" (Class A.1.(k)(iv)). Part of this roof is being raised in order to convert the integral garage into a bedroom which falls into the scope of Class A (the "enlargement, improvement or other alteration of a dwelling house"). It is therefore not Permitted Development.

We understand that alterations to the roof are permitted under Class B of the Planning Order providing that "other than the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original part of dwellinghouse" (Class B.2. (b)(ii)). However, this does not apply in this case as it is a new roof (not the original roof) which would be joined to the new side extension.

We hope you find this a helpful clarification of why we believe this is not Permitted Development.

Thank you for taking our comments into account when reaching your decision on this application.

A further nearby resident has objected as they believe that raising the height of the proposed extension to this property contravenes the application and therefore proper Planning Consent must be applied for.

Comments on Representations received:

In respect of the objections raised, the issues in this application are technical ones and to put it simply the extensions either meet or do not meet the relevant Class A criteria and conditions.

Paragraph A.1 (k)(iv) states:

- (k) it would consist of or include -
- (iv) an alteration to any part of the roof of the dwellinghouse.

This restriction applies to the main roof of the dwellinghouse. The specific word used is roof, not the plural roofs. The intention is to ensure that works that should be considered under Classes B or C cannot be carried out under Class A.

Class B covers additions or alterations to roofs which enlarge the house such as loft conversions involving dormer windows and not extensions of the type shown in this application.

The objector is unfortunately misunderstanding or misinterpreting the application of the GPDO. The application of Class A is dealt with below in the conclusions section of this report.

CONSULTATIONS

Consultations responses received:

No consultees.

Comments on Consultation responses:

N/A

LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

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.

In this instance the proposed works will be assessed against 2 criteria contained within The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008, Part 1.

- Class A, which pertains to the enlargement, improvement, or other alterations to a dwellinghouse.

Provided the proposed works satisfy the relevant criteria, and that no restrictive conditions to development have been imposed on the site, the proposed works will constitute Permitted Development and would not require planning permission. If the works fail to accord with the criteria then planning permission will be required for them to take place.

CONCLUSIONS

There is no record of permitted development rights for extensions to this dwelling having been removed or restricted.

The issue in this application is therefore whether the extensions and improved insulation proposed require planning permission. The site is a dwelling and therefore benefits from 'Permitted Development Rights'. In order for planning permission not to be required, the formation of the extensions and improved insulation must comply with the following:

Under Class A the following limits and conditions apply:

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

(a) 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)

(b) 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

(c) 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

(d) the enlarged part of the dwellinghouse would extend beyond a wall which -

(i) fronts a highway, and

(ii) forms either the principal elevation or a side elevation of the original dwellinghouse

The installation of solid wall insulation constitutes an improvement rather than an enlargement or extension to the dwellinghouse and is not caught by the provisions of d(i) and d(ii).

(e) 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

(ea) until 30th May 2016, for a dwellinghouse not on article 1(5) 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

f) the enlarged part of the dwellinghouse would have more than one 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

(g) 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

Where any part of a proposed extension to a house is within two metres of the boundary of the land surrounding the property, then the maximum height of the eaves that is allowed for all parts of the proposal is three metres.

(h) 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 one storey, or
- (iii) have a width greater than half the width of the original dwellinghouse

or

- (i) it would consist of or include -
 - (i) the construction or provision of a veranda, 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

or

- (i) it would consist of or include -
 - (i) the construction or provision of a veranda, 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

A.2 In the case of a dwellinghouse on article 1(5) land, development is not permitted by Class A if -

(a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;

(b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or

(c) the enlarged part of the dwellinghouse would have more than one storey and extend beyond the rear wall of the original dwellinghouse

This section of the rules sets out additional restrictions for National Parks, the Broads, areas of outstanding natural beauty, conservation areas, and land within World Heritage Sites. In these

areas:

- the cladding of any part of a house, whether it be the original house or any enlargement is not permitted development and requires an application for planning permission
- extensions beyond any side wall are not permitted development in these areas
- an extension from a rear wall is not permitted development if it results in an enlarged area of the house that has more than one storey.

Conditions

A.3 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

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 1.7 metres above the floor of the room in which the window is installed

(c) where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part shall, so far as practicable, be the same as the roof pitch of the original dwellinghouse

The dimensions of the proposed extensions and the thermal insulation improvements, including replacement cladding, have been detailed in the Description of Application section of the report. The proposed extensions and thermal insulation is within the limits set out in Class A as they:

1. Does not cover more than 50% of the remaining curtilage.
2. Does not exceed the height of highest part of the roof of the existing dwelling.
3. The eaves do not exceed the height of the eaves of the existing dwelling.
4. The extensions do not extend beyond a wall which fronts a highway and which forms a principal elevation. The garage conversion element does not result in the development being closer to the highway and maintains the existing line of the front of the garage, substituting insulation and glazing materials for the garage door.
5. The extensions do not exceed 4m in depth beyond the rear wall of the dwelling.
6. The extensions do not exceed 4m height.
7. The extensions are not larger rear extensions (see (ea)above)
8. The extensions are single storey.
9. The eaves do not exceed 3m in height within 2m of a boundary, measured from ground level within the site.
10. Does not consist of or include a veranda, balcony or raised platform. Does not involve a microwave antenna. does not include a chimney, flue or soil or vent pipe. And does not involve an alteration of the roof of the dwelling.
11. The site is not located on Article 1(5) land.
12. Materials are proposed to match those of the existing dwelling.
13. No upper floor windows are involved.

The extensions meet the criteria and conditions within Class A and therefore planning permission is not required.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on 25 August 2015 the development described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate was lawful within the meaning of section 192 of the Town & Country Planning Act 1990 by reasons of compliance with relevant criteria and conditions within Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015.

FIRST SCHEDULE

This application indicates the following works at this dwelling under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015:

1. An extension on the west side of this dwelling to replace an existing lean to structure and conversion of the existing integral garage into living accommodation. This extension would be 3m in height above ground level within the application site. The works would also involve the installation of insulation panelling on the front elevation of the new accommodation to replace the garage door and would include new windows. The extension would have a flat roof with 2 roof lights inset into the roof. It would be 6.4m deep along the boundary with no.41 adjoining.

2. An extension on the east side of this dwelling to replace an existing extension. This would also be 3m in height above ground level within the application site. The works would also involve the installation of a new garage door to serve the single garage to be formed. It would be 6.6m deep along the boundary with no.41 adjoining.

The development is as detailed on following the submitted drawings:

Drawing Number 1419 SK11 - Block Plan, Scale 1:500 - Dated July 2015.

Drawing Number 1419 SK12 - Proposed Ground Floor Plan - Dated July 2015.

Drawing Number 1419 SK13 - First Floor Plan (Roof of Extensions) - Dated July 2015.

Drawing Number 1419 SK14A - Proposed North & South Elevations - Dated July 2015.

Drawing Number 1419 SK15 - Proposed West & East Elevations - Dated July 2015.

Drawing Number 1419 AL (0-)01B - Site Survey - Dated 23 April 2015.

SECOND SCHEDULE

Broadbeach, 39 Coastal Road, Kingston, West Sussex BN16 1SN



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