

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development

REF NO: R/121/15/CLP

LOCATION: 31 Andrew Close
Rustington

PROPOSAL: Lawful development certificate for a proposed loft conversion.

DESCRIPTION OF APPLICATION

Lawful development certificate for a proposed loft conversion with the addition of two side dormers and alterations to create a gable end at the rear of the dwelling. Whilst not part of the description to the application the submitted plans include the conversion of the garage to provide a study.

DESCRIPTION OF SITE AND SURROUNDINGS

Detached dwelling with light brown brick elevations and a plain tile roof. Garages adjoin both site boundaries. Predominantly residential characterised by detached bungalows of similar design.

RELEVANT SITE HISTORY

An earlier planning application for loft conversion and alterations along with the conversion of the garage was refused under reference R/29/15/HH.

REPRESENTATIONS

Representations received:

9 x Letters of objection from 6 addresses & 1 x Letter of objection signed by 18 individuals from 14 different addresses:-

- Application remains similar in design and appearance to that previously refused.
- Loss of garage parking will adversely impact upon the highway.
- Loss of privacy due to proposed roof alterations.
- Proposal will generate unacceptable overlooking.
- Proposal is considered to be over-development of the site.
- Proposed works detrimental to the character of the area and would set a precedent for similar works.
- Dormer windows will cause a loss of light.
- Request made for the creation of an Article 4 Direction to remove permitted development rights.

Comments on Representations received:

The letters of objection are acknowledged. However, a Lawful Development Certificate is a legal determinations based upon the limitations imposed within the Town and Country (General Permitted Development) Order 2015 and as such the objections raised which are concerned with planning merit cannot be taken into account in the determination of this application. No Article 4 Direction is currently in place in relation to the proposal the subject of this application and there is no compelling justification to do so.

CONSULTATIONS

Consultations responses received:

None.

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.

It should first be established whether or not the proposed works constitute 'development' as described in Town and Country Planning Act 1990 Section 55. Any works that are qualified as development will be assessed against criteria contained within The Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 1 which sets out the Permitted Development rights extended to dwellinghouses and development within their residential curtilage.

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

GARAGE CONVERSION

The proposed garage conversion shown on the submitted plans would not be regarded as 'development'. The Town and Country Planning Act 1990 (c. 8) Part III Section 55 Para. 2 (d) states that the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse is not development. Planning history also shows that there were no conditions imposed prohibiting the conversion of the garage without the prior written approval of the Local Planning Authority.

Section 55 Para. 2 (a) informs that the carrying out for the maintenance, improvement or other alteration of any building of works which affect only the interior of the building, or do not materially affect the external appearance of the building are also not regarded as development. The internal conversion of the existing garage is therefore not classed as development. A site history search has confirmed that there are no conditions attached to the dwelling that prohibit the conversion of garage to habitable rooms.

The only external works associated with the garage conversion consist of the addition of a window on the rear elevation of the property. The Town and Country Planning (General Permitted Development) Order 1995 (as amended), under Schedule 2, Part 1, Class A informs that the enlargement, improvement or other alteration of a dwellinghouse constitutes Permitted Development, unless it is one of the exceptions listed in Class A.1 or exceeds restrictions set out in that part of the order. Ground floor windows are not listed as an exception and are not subject to any specific restrictions.

ALTERATIONS TO THE ROOF

The Town and Country (General Permitted Development) Order 2015 under Schedule 2, Part 1, Class B prescribes the degree of works in relation to the enlargement of a dwellinghouse consisting of an addition or alteration to its roof that can be undertaken without the need to apply for Planning Permission. The development the subject of this application will therefore be assessed against the criteria contained within this part of the order.

Class B, B.1 (a) cannot be applied in this instance as the dwellinghouse has not been the subject of a change of use under Class M, N, P or Q of Part 3 of the Town and Country (General Permitted Development) Order 2015.

Class B, B.1 (b) states that no part of the dwellinghouse, would as a result of the works, exceed the height of the highest part of the existing roof. The proposal would not exceed the highest part of the existing roof.

Class B, B.1 (c) the dormers the subject of this application do not extend beyond the plane of any existing roof slope which forms the principle elevation of the dwellinghouse and front a highway.

Class B, B.1 (d) (ii) the proposed dormers and roof alterations will have a combined cubic content of approximately 49.11 metres cubed. Therefore, the alterations to the roof do not exceed the cubic content of the original roof space by more than 50 cubic metres.

Class B, B.1 (d) (i) and (ii) are not applicable in the determination of this application as it will not include the provision of a veranda, balcony, raised platform or the alteration or installation of a chimney, flue, soil or vent pipe.

Class B, B.2, (a) specifies that the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. Therefore it will be necessary for the materials used in construction to be similar in appearance to the existing dwelling.

Class B, B.2, (b) (i) (ii) the design of the dormer is deemed to be in accordance with the limitations imposed under this section of Class B.

Class B, B.2, (c) (i) (ii) specifies that any windows inserted into a roof slop forming a side elevation of the dwelling house shall be obscurely glazed and non-opening below 1.7 metres from floor level of the room in which the window is installed. Therefore, the windows shown at first floor level on the side elevations of the property must be obscurely glazed and non-opening bellow 1.7 metres from floor level.

Therefore, it is considered that the proposed roof alterations the subject of the lawful development certificate would benefit from permitted development rights under Schedule 2, Part 1, Class B of The Town and Country (General Permitted Development) Order 2015.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on the 14th May 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, would have been lawful within the meaning of section 192 of the Town & Country Planning Act 1990 for the following reason:

·The proposed alterations to the roof would have been in accordance with the limitations imposed under Schedule 2, Part 1, Class B of the Town and Country (General Permitted Development) Order 2015.

FIRST SCHEDULE

The development shall consist of the addition of 2 No. dormer windows with obscurely glazed and non-opening windows below 1.7 metres from floor level; and alterations to the roof to provide rear gable as detailed on the submitted drawings:

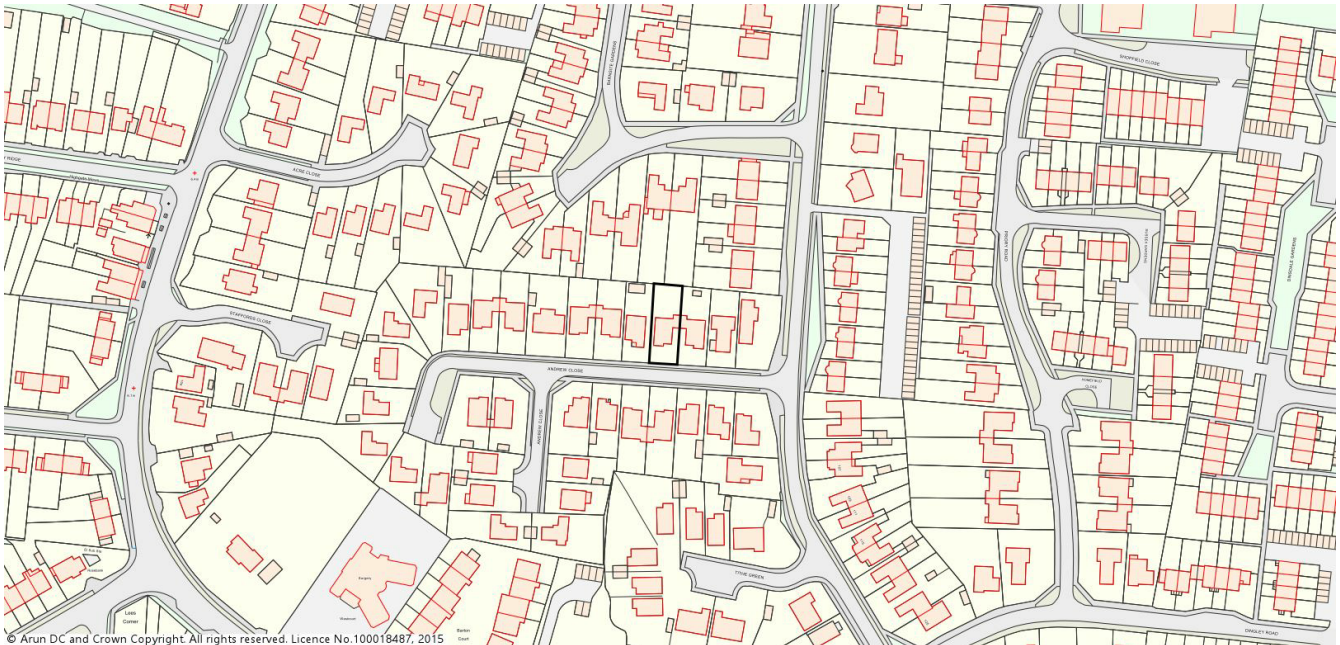
- Location Plan & Site Plan - 1449/07
- Design Proposals 2 - 1449/06 A

SECOND SCHEDULE

31 Andrew Close, Rustington, West Sussex, BN16 3QE.

EXTENT OF USE

The addition of 2 No. dormers and alterations to the roof to provide rear gable.



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