



Report to Planning Committee 08 December 2022
 Business Manager Lead: Lisa Hughes – Planning Development
 Lead Officer: Honor Whitfield, Planner, ext. 5827

Report Summary			
Application Number	22/01824/LDCP		
Proposal	Certificate of Lawfulness for proposed replacement conservatory		
Location	2 Redmay Corner, Main Street, South Scarle, Newark On Trent, NG23 7JH		
Applicant	Mr Ian Dales	Agent	N/A
Web Link	22/01824/LDCP Certificate of Lawfulness for proposed replacement conservatory 2 Redmay Corner Main Street South Scarle Newark On Trent NG23 7JH (newark-sherwooddc.gov.uk)		
Registered	26.09.2022	Target Date	21.11.2022
		Extension To:	09.12.2022
Recommendation	That a certificate of lawfulness is APPROVED for the reason detailed at Section 7.0		

The application is referred to the Planning Committee in line with the Council’s Scheme of Delegation as the Applicant is related to a Member of the Planning Committee.

1.0 The Site

The application site relates to a detached single two-storey dwelling on the western side of Main Street which is a residential street within a residential area of South Scarle. The property is modern in appearance, set behind a similarly modern dwelling. The site is within the Conservation Area.

2.0 Relevant Planning History

23860171 – Erection of two houses – Permitted 22.07.1986 – Permitted Development rights removed for the erection of any means of enclosure (Schedule 2, Part 2, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015)).

3.0 The Proposal

This application seeks a lawful development certificate for a replacement conservatory on the southern side of the western elevation:

- Existing Conservatory: approx. 3.7m wide x 3.7m deep x 3m to the ridge and 2.3m to the eaves.
- Proposed Conservatory: 3.5m wide x 4m deep, 2.98m to the ridge and 2.26m to the eaves. Proposed to be white uPVC.

Information submitted as part of the LDC application

- Application Form
- Self-Assessment Form A
- Photo of Conservatory (16.09.2022)
- Site Location Plan (deposited 26.09.2022)
- Detailed Drawing for Conservatory (16.09.2022)
- Quotation 02 for Conservatory (16.09.2022)

4.0 Comments of the Business Manager – Planning Development

Planning Practice Guidance states a local planning authority can grant a certificate confirming that a proposed use of buildings or other land, or some operations proposed to be carried out in, on, over or under land, would be lawful for planning purposes under section 192 of the Town and Country Planning Act 1990.

The statutory framework covering “lawfulness” for lawful development certificates is set out in section 191(2) of the Act. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required.

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?”

Firstly, I have considered whether the demolition of the existing conservatory would require planning permission or prior approval. In my view no application for planning permission or prior approval is required to demolish the conservatory as it has a volume of under 50 cubic metres (with a cubic volume of 41m³ approximately) and thus the demolition would not constitute ‘*development*’ having regard to the provisions of the Town and Country Planning (Demolition – Description of Buildings) Direction 2014.

Secondly, it is noted that this property’s permitted development rights were restricted under the original permission but only for the erection of any means of enclosure (walls, gates, fences etc.). The properties permitted development rights for all other classes remains intact.

The main issue in this case is therefore whether the proposed works are permitted development by virtue of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Limits and conditions of Class A – enlargement, improvement or alteration of a house	Yes / No	To be PD
Have permitted development rights been removed	N (in respect of this Class)	N
Is the property a dwellinghouse	Y	Y
Is it detached?	Y	
Is it semi-detached or terraced?	N	
Is it within a conservation area	Y	
A.1 Development is not permitted by Class A if – (a) Has permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use)	N	N
Development not permitted by Class A		
(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)	N	N
(c) would the height of the part of the dwellinghouse enlarged, improved or altered exceed the height of the highest part of the roof of the existing dwellinghouse	N	N
(d) would the height of the eaves of the part of the dwellinghouse enlarged, improved or altered exceed the height of the eaves of the existing dwellinghouse	N	N
(e) would the enlarged part of the dwellinghouse 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	N	N
(f) would the enlarged part of the dwellinghouse 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	N	N
(g) is the development outside of article 2(3) land (conservation area) or outside of a site of special scientific interest	N	
(g) cont. would it have a single storey (previous extensions to the rear need to be taken into account)	N/A	
(i) would it extend beyond the rear wall of the original	N/A	N

Limits and conditions of Class A – enlargement, improvement or alteration of a house	Yes / No	To be PD
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		
Have any representations been received from adjoining premises	N/A	
(h) would the enlarged part of the dwellinghouse 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 being enlarged which is opposite the rear wall of that dwellinghouse	N	N
(i) would the enlarged part of the dwellinghouse be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part exceed 3 metres	N	N
(j) would the enlarged part of the dwellinghouse extend beyond a wall forming a side elevation of the original dwellinghouse, and:- (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	N	N
(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)	N	N
(k) 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	N	N
(l) is the dwellinghouse built under Part 20 of this Schedule (construction of new dwellinghouses)	N	N
A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted if:-	N	N
(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;	N/A	
(c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original	N/A	

Limits and conditions of Class A – enlargement, improvement or alteration of a house	Yes / No	To be PD
dwellinghouse		
(d) 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 (b) and (c)	N/A	
A.3 Development is permitted by Class A subject to the following conditions:- (a) would the materials used in any exterior work (other than materials used in the construction of a conservatory) be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse	Y	Y
(b) would any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse 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;	N/A	Y
(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, would the roof pitch of the enlarged part, so far as practicable, be the same as the roof pitch of the original dwellinghouse.	N/A	Y

5.0 Implications

In writing this report and in putting forward a recommendation, Officers have considered the following implications: Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have referred to these implications and added suitable expert comment where appropriate.

6.0 Conclusion

Having undertaken an examination of the previous planning history no restrictions are in place which restricts the permitted development rights under Schedule 2, Part 1, Class A of the above Order. Having considered the submitted application form and drawings against the relevant sections of The Order, as fully explored above, I consider that the proposed development would be permitted by Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended and consequently the proposed development benefits from 'deemed' planning permission and is lawful.

7.0 Recommendation

That a certificate of lawfulness is granted.

It is considered that the proposed replacement conservatory (as described and indicated in the documents supporting this application) falls within Class A of Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) the 'Order' and as such represents development that is permitted and therefore benefits from deemed planning permission, provided it is undertaken in full accordance with the dimensions and siting submitted under this application and the conditions and criteria within Class A of Part 1, Schedule 2 of the Order.

BACKGROUND PAPERS

Application case file.

Committee Plan - 22/01824/LDCP



