

7.3 The development has been assessed against Schedule 2, Part 1, Classes A and B.

7.4 The development has been assessed against **Schedule 2, Part 1, Class A** of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in regards to the proposed single storey rear extension:

7.5 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 G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);(General Permitted Development) (England) Order 2015 (changes of use). - **N/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); - **Met**

(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 . - **Met**

(d) the height of the eaves of the extension will not exceed the highest part of the eaves of the existing dwellinghouse. - **Met**

(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; - **Does not extend beyond either elevation.**

(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; . – **Met as it extends 3 metres from rear wall and would have a height of approximately 3.3 metres.**

(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; - **Not relevant in this application, the site is not on article 2(3) land nor a site of special scientific interest .**

(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 being enlarged which is opposite the rear wall of that dwellinghouse;- **Not relevant in this application as the proposed extension is single storey.**

(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 extension would be approximately 2.5 metres from the boundary of the curtilage, the eaves height would not exceed 3 metres.**

(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;- **Not relevant in this application as the development will be located to the rear of the dwelling.**

(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); - **Met**

(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 the construction or provision of a veranda, balcony or raised platform. It does not include the installation, alteration or replacement of a microwave antenna; and does not include the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or the alteration to any part of the roof of the dwellinghouse**

(l) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)- **the dwellinghouse has not been built under Part 20 of this Schedule (construction of new dwellinghouses).**

7.6 The development has been assessed against **Schedule 2, Part 1, Class B** of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in regards to the proposed loft conversion and dormers :

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (change of use) - **Met**

(b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof - **Met**

(c) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway - **Met**

(d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than:

(i) 40 cubic metres in the case of a terrace house, or

(ii) 50 cubic metres in any other case - **not met - the total dormer volume calculated would exceed 50m³.**

NB Whilst the submitted plans have annotations purporting to show the cubic content of each dormer as 22.4 cubic metres, this appears to ignore the Interpretation set out in Article 2(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, which states:

“cubic content” means the cubic content of a structure or building measured

externally;

When measured externally each dormer is in excess of 30 cubic metres and thus together they exceed the 50 cubic metre limit.

(iii) For the purposes of Class B "resulting roof space" means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not

(e) it would consist of or include:

(i) the construction or provision of a verandah, balcony or raised platform, or -
N/A

(ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe - **N/A**

(f) the dwellinghouse is on article 2(3) land - **Not on article 2(3) land**

(g) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).;
or - **Met**

(h) the existing dwellinghouse has been enlarged in reliance on the permission granted by Class AA
(enlargement of a dwellinghouse by construction of additional storeys). - **Met**

B.2 Development is permitted by Class B subject to the following conditions:

(a) 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 - **MET - materials would match existing.**

(b) the enlargement shall be constructed so that:

(i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension:

(aa) the eaves of the original roof are maintained or reinstated; and - **Met**

(bb) the edge of the enlargement closest to the eaves of the original roof shall, so far as practicable, be not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and -
Met - this would exceed 0.2 metres.

(ii) other than in 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 dwellinghouse - **Met**

(c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse shall be:

(i) obscure-glazed, and - **Met- two windows proposed would be obscure glazed.**

(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 - **Met**

7.7 A2 - The application site is not situated within Article 2(3) land

7.8 A search of the planning history has not revealed conditions that restrict 'permitted development' rights, nor is the dwelling part of an Article 4 direction.

8 Conclusion

8.1 Under Schedule 2, Part 1, Class B of the The Town and Country Planning (General Permitted Development) Order 2015, as amended, it is considered that the proposed dormers fall outside of the Permitted Development criteria and therefore planning permission is required and the certificate of lawfulness must be refused.

9 RECOMMENDATION:

That the Head of Place be authorised to **REFUSE A CERTIFICATE OF LAWFUL USE** for application APP/24/00558 for the following reason:

The cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than 50 cubic metres, and thus would exceed the allowances set out under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. As planning permission is required for the works, a Certificate of Lawfulness cannot be granted.

NB Whilst the submitted plans have annotations purporting to show the cubic content of each dormer as 22.4 cubic metres, this appears to ignore the Interpretation set out in Article 2(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, which states:

*“cubic content” means the cubic content of a structure or building measured externally”
When measured externally each dormer is in excess of 30 cubic metres and thus together they exceed the 50 cubic metre limit.*

FIRST SCHEDULE:

This decision relates to the following development:

Application for Lawful Development Certificate relating to proposed loft conversion with side dormers and single storey rear extension. as described in the written particulars, plans and other documents submitted with your application received on 15 July 2024 and published on 24 July 2024.

SECOND SCHEDULE:

This decision relates to land at 109 Haslar Crescent, Waterloo, PO7 6DD as shown edged red on the submitted Location Plan received 15 July 2024 and published 24 July 2024.

OTHER IMPORTANT INFORMATION:

- (1) This Certificate is issued solely for the purpose of Sections 192 of the Town and Country Planning Act 1990 (as amended). It does not relate to any other application that may be required under any other part of the Town and Country Planning Act, the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6571.
- (2) It certifies that the development specified in the First Schedule taking place on land described in the Second Schedule would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) on the specified date and thus would not have been liable to enforcement action under part 7 of the 1990 Act on that date.
- (3) The certificate only applies to the extent of the development specified in the First Schedule taking place on land described in the Second Schedule and identified on the attached plan. Any development which is materially different from that described or which relates to other land may render the owner/occupier liable to enforcement action under section 172 of the 1990 Act.
- (4) The effect of the certificate is also qualified by the provision in section 192(4) of the 1990 Act (as amended), which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matter relevant to determining such lawfulness.
- (5) Your attention is drawn to the attached information regarding your right to appeal to the Department for Transport Local Government and the Regions, if you are aggrieved by the Council's decision.