
Site Address: 89 North Street, Emsworth, PO10 7PQ
Proposal: Certificate of proposed lawful development relating to loft conversion with rear dormer and rooflight to front.
Application Type: Certificate of Lawfulness
Application No: APP/23/00759 Expiry Date: 26/10/2023
Applicant: Mr & Mrs Leigh-Jones
Agent: Mr Austin Case Officer: Bethany Crowther
 Austin Lebbon Architecture
Ward: Emsworth

Recommendation: **GRANT A CERTIFICATE OF LAWFUL USE**

1 Site Description

89 North Street, Emsworth is a mid terrace two storey house to the east of North Street. The area is mainly residential and with relatively high density development. Havant station lies to the north west.

2 Planning History

No planning history.

3 Proposal

Certificate of proposed lawful development relating to loft conversion with rear dormer and rooflight to front.

4 Policy Considerations

The Town and Country Planning (General Permitted Development) (England) Order 2015.

5 Statutory and Non Statutory Consultations

Not required for a Certificate of Lawful Development.

6 Community Involvement

Not required for a Certificate of Lawful Development.

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

(i) Principle of development

7.2 The proposal has been assessed against the 'Permitted Development' allowances in the Town and Country Planning (General Permitted Development) (England) Order

2015 (as amended).

- 7.3 The development has been assessed against **Schedule 2, Part 1; Class B and Class C** of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). A search of the planning history has not revealed any conditions that restrict permitted development rights.
- 7.4 Under **Schedule 2, Part 1, Class B** the proposed rear dormer **meets** the following tests:

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

(a) 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 (change of use)

This is not applicable to the proposed development.

(b) Any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof

The proposed development would not exceed the height of the highest part of the existing roof.

(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

The proposed dormer would be to the rear of the property and therefore would not extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and does not front a highway.

(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

(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

The existing dwellinghouse is a terraced house so criterion (d)(i) applies. The proposed development would result in approximately 33 cubic metres of resulting roof space. This is less than the 40 cubic metre limit.

(e) It would consist of or include:

(i) The construction or provision of a verandah, balcony or raised platform, or

(ii) The installation, alteration or replacement of a chimney, flue or soil and vent pipe

The proposed development would not include any of the above.

(f) The dwellinghouse is on article 2(3) land

The site is not on Article 2(3) land.

(g) The dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)

Not applicable in this application.

(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)

Not applicable in this application.

Conditions

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

As stated on Drawing No. 22111 [PL]205, the proposed development would contain materials similar to existing. Drawing No. 22111 [PL] 204 B states that the materials would comprise tile hanging, flat roof covering and white UPVC windows.

(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

(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

(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

The proposed development would not be less than 0.2 metres from the outside edge of the existing eaves and would not extend beyond the outside face of any external wall of the original dwellinghouse.

(c) Any window inserted on 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

As shown on 22111[PL]204 B, the window on the side elevation of the proposed dormer would be obscure glazed and non-opening 1.7 metres from floor level.

- 7.5 Under **Schedule 2, Part 1, Class C** the proposed front window meets the following tests:

C.1 Development is not permitted by Class C if:

(a) 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 (change of use)

This is not applicable to the proposed development.

(b) The alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof

The proposed roof light would not protrude more than 0.15 metres beyond the plane of the slope of the original roof.

(c) It would result in the highest part of the alteration being higher than the highest part of the original roof; or

The proposed roof light would not exceed the highest part of the original roof.

(d) It would consist of or include:

- (i) The installation, alteration or replacement of a chimney, flue or soil and vent pipe, or**
- (ii) The installation, alteration or replacement of solar photovoltaics or solar thermal equipment**

The proposed development would not comprise any of the above.

Conditions

C.2 Development is permitted by Class C subject to the condition that any window located on a roof slope forming a side elevation of the dwellinghouse shall be:

- (a) Obscure-glazed; and**
- (b) 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**

As shown on 22111[PL]204 B, the window on the side elevation of the proposed dormer would be obscure glazed and non-opening 1.7 metres from floor level.

8 Conclusion

- 8.1 The proposed development falls within permitted development regulations as set out in **Schedule 2, Part 1; Class B and Class C** of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Therefore, a Lawful Development Certificate **can** be issued.

9 RECOMMENDATION:

That the Head of Place be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/23/00759 subject to the following conditions

FIRST SCHEDULE:

This certificate relates to the following development:

Certificate of proposed lawful development relating to loft conversion with rear dormer and rooflight to front as described in the written particulars, plans and other documents submitted with your application received on 31 August 2023.

SECOND SCHEDULE:

This certificate relates to land at 89 North Street, Emsworth, PO10 7PQ as shown edged red on the submitted Location Plan received 31 August 2023.

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.