
Site Address: 4 Fairfield Close, Emsworth, PO10 7PZ
Proposal: Application for Lawful Development Certificate relating to proposed single storey rear extension.
Application Type: Certificate of Lawfulness
Application No: APP/23/00412 Expiry Date: 28/06/2023
Applicant: Mr & Mrs Brokenshire
Agent: Mr Bessant Case Officer: Bethany Crowther
 JB Architecture Design Ltd.
Ward: Emsworth

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

1 Site Description

4 Fairfield Close, Emsworth, PO10 7PZ

2 Planning History

14738_DN - Erection of 41 dwellings, off Woodlands Avenue, Fairfield Farm Estate, Emsworth. (Outline Permission). 01/08/1962.

14738_10_DN - Erection of two houses and garages at Plots 1 and 5, Fairfield Estate, Emsworth. 24/05/1963.

Officer Comments: No removal of Permitted Development Rights.

3 Proposal

Application for Lawful Development Certificate relating to proposed single storey rear extension.

4 Policy Considerations

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

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Not required.

6 Community Involvement

Not required.

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 A** of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Class A provides permitted development rights for the enlargement, improvement and/or alteration of a dwellinghouse. A search of the planning history has not revealed any conditions that restrict permitted development rights.
- 7.4 Under **Schedule 2, Part 1, Class A**, the proposed single storey extension **meets** the following tests:

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 M, N, P, PA or Q of Part 3 of this Schedule (Change of Use).

This is not applicable to the proposed development.

(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).

The proposed development would not result in the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) to exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse).

(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.

The proposed extension would be single storey, therefore it would not exceed the height of the highest part of the roof of the existing two-storey dwellinghouse.

(d) 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.

The height of the eaves of the proposed development would not exceed the height of the eaves of the existing dwellinghouse.

(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.

In terms of criterion (e)(i), the proposed development would be a rear extension and would not extend beyond a wall forming the principal elevation of the original dwellinghouse.

In terms of criterion (e)(ii), the proposed extension would be flush with the north side elevation of the existing dwellinghouse, however it would not extend beyond this wall. The proposed extension would not front a highway.

(f) 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.

In terms of Criterion (f)(i), the existing dwellinghouse is a detached property. The proposed rear extension would be single storey and would extend beyond the rear wall by 4 metres and so would meet the 4 metre limit. The Permitted development rights for householders: technical guidance confirms that *Measurement of the extension beyond the rear wall should be made from the base of the rear wall of the original house to the outer edge of the wall of the extension (not including any guttering or barge boards)*. This allows for the roof overhang.

In terms of Criterion (f)(ii), the proposed extension would have a maximum height of approximately 3.8 metres. This would be below the maximum 4 metre limit.

(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.

The above is not applicable to the proposed development which is seeking to demonstrate the scheme is permitted development. The existing dwellinghouse is a detached property and is not on Article 2(3) land. The proposed rear extension would be single storey and would extend beyond the rear wall of the original dwellinghouse by 4 metres. As such, Criterion (g) is not applicable and, instead, Criterion (f) applies – as set out above. The

(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.

The proposed development comprises a single storey rear extension, therefore the above is not applicable to the proposed development.

(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 proposed development is not within 2 metres of the boundary of the curtilage of the dwellinghouse. The height of the eaves is measured at approximately 2.3 metres, which is below the 3 metre limit.

(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.

The proposed development would be a single storey rear extension. Although the proposed extension would be flush with the north side elevation wall, it would not extend beyond a wall forming a side elevation of the original dwellinghouse. Therefore, Criterion (j) is not applicable.

(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).

The existing enlargement of the original dwellinghouse is a conservatory which is subject to be replaced by the proposed single storey rear extension. As such, Criterion (ja) is not applicable to the proposed development.

(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 proposed development would not comprise any of the above.

(l) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses). N/A

A.2 In the case of a dwellinghouse on article 2(3) 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.

(c) The enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.

(d) Any total enlargement (being the enlarged part together with any existing enlargements of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (b) and (c).

The dwellinghouse and proposed development are not on Article 2(3) land and so the criteria set out under A.2 is not applicable.

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.

The submitted 'Proposed Elevations Pitched Roof Option – PL.688.23.04.A' plan states that the proposed development would comprise render and roof tiles to match existing.

(b) Any upper-floor window located in a wall of 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.

The proposed extension is single storey. As such, Condition A.3(b) is not applicable to the proposed development - no accommodation/floor is proposed within the roof of the extension.

(c) Where the enlargement part of the dwellinghouse has more than a single storey or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

The proposed development is a single storey rear extension. As such, Condition A.3(c) is not applicable to the proposed development.

8 Conclusion

- 8.1 The proposed development falls within permitted development regulations as set out in **Schedule 2, Part 1, Class A** 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/23/00412 subject to the following conditions

FIRST SCHEDULE:

This certificate relates to the following development:

Application for Lawful Development Certificate relating to proposed single storey rear extension as described in the written particulars, plans and other documents submitted with your application received on 03 May 2023.

SECOND SCHEDULE:

This certificate relates to land at 4 Fairfield Close, Emsworth, PO10 7PZ as shown edged red on the submitted Location Plan Drawing Number 01 Rev A received 03 May 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.

