
Site Address: 11 Kings Road, Cowplain, Waterloooville, PO8 8UR
Proposal: Certificate of Lawfulness for proposed hip to gable loft conversion with rear dormer and front rooflights, demolition of existing garage to be replaced with garage at the rear, erection of 2 metre gates and installation of flue for log burner.
Application Type: Certificate of Lawfulness
Application No: APP/23/00530 Expiry Date: 16/08/2023
Applicant: Mr Nutbrown
Agent: Mr Walker Case Officer: Bethany Crowther
Parkers Design
Ward: Hart Plain

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

1 Site Description

11 Kings Road, Cowplain, Waterloooville, PO8 8UR

2 Planning History

No relevant planning history.

3 Proposal

Certificate of Lawfulness for proposed hip to gable loft conversion with rear dormer and front rooflights, demolition of existing garage to be replaced with garage at the rear, erection of 2 metre gates and installation of flu for log burner.

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 B, Class C, Class E, Class G and Schedule 2, Part 2; Class A** 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 hip to gable loft conversion with 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 G, M, MA, 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 hip to gable roof extension would not extend beyond the plane of the existing roof slope on the principal (front) elevation of the dwellinghouse and fronts a highway. The proposed dormer would be to the rear of the property and would 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 detached and so criterion (d)(ii) applies. The proposed development would result in approximately 49.05 cubic metres of resulting roof space, which would comprise 9.69 m³ from the rear dormer and 39.36 m³ from the hip to gable roof extension. This is less than the 50 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 include the installation of a Juliet balcony to the rear dormer, which falls under permitted development. The installation, alteration and replacement of a chimney and flue is assessed against Class G later in this report.

(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) or

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

The agent has described that materials would match the existing dwellinghouse with hanging tile to match existing on the rear dormer on the submitted Elevations -right/left side plan.

(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

There are no proposed side windows.

7.5 Under **Schedule 2, Part 1, Class C** the proposed front roof lights 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 G, M, MA, 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 lights 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;

The proposed roof lights 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; or

The installation, alteration and replacement of a chimney and flue is assessed against Class G later in this report. The proposed development does not include solar photovoltaics or solar thermal equipment.

(e) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).

This does not apply.

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

There are no proposed windows on the side elevation.

- 7.6 Under **Schedule 2, Part 1, Class E** the proposed garage to the rear meets the following tests:

E.1 Development is not permitted by Class E 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 (change of use)

This is not applicable to the proposed development.

(b) The total area of ground covered by buildings, enclosures and containers within the curtilage (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 exceed this limit.

(c) Any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse

The proposed garage would be situated in the rear garden, therefore would not be forward of a wall forming the principal elevation.

(d) The building would have more than a single storey

The proposed development would be single storey.

(e) The height of the building, enclosure or container would exceed:

(i) 4 metres in the case of a building with a dual-pitched roof,

(ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or

(iii) 3 metres in any other case

The proposed garage would be within 2 metres of the boundary of the curtilage of the dwellinghouse and would have a height of 2.5 metres, therefore meeting the limit.

(f) The height of the eaves of the building would exceed 2.5 metres

The eaves height of the proposed garage would be 2.5 metres, therefore not exceeding the limit.

(g) The building, enclosure, pool or container would be situated within the curtilage of a listed building

Not applicable in this application.

(h) It would include the construction or provision of a verandah, balcony or raised platform

There would not be a verandah, balcony or raised platform.

(i) It relates to a dwelling or a microwave antenna

The proposed works would not.

(j) The capacity of the container would exceed 3,500 litres or

This is not applicable to the proposed works.

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

This is not applicable to this application.

E.2 In the case of any land within the curtilage of the dwellinghouse which is within:

- (a) A World Heritage Site,**
- (b) A National Park,**
- (c) An area of outstanding natural beauty or**
- (d) The Broads**

Development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres

This is not applicable to the proposed development.

E.3 In the case of any land within the curtilage of the dwellinghouse which is article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse

This is not applicable to the proposed development.

7.7 Under Schedule 2, Part 1, Class G the proposed installation of a flue meets the following tests:

G.1 Development is not permitted by Class G 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);

This is not applicable to the proposed development.

(b) The height of the chimney, flue or soil and vent pipe would exceed the highest part of the roof by 1 metre or more;

The height of the flue would not exceed the highest part of the roof by 1 metre or more.

(c) In the case of a dwellinghouse on article 2(3) land, the chimney, flue or soil and vent pipe would be installed on a wall or roof slope which-

(i) Fronts a highway, and

(ii) Forms either the principal elevation or a side elevation of the dwellinghouse

This is not applicable in this application.

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

This is not applicable in this application.

7.8 Under **Schedule 2, Part 2, Class A** the proposed erection of 2 metre gates at the front of the property meets the following tests:

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

(a) The height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed-

(i) For a school, 2 metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than 1 metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons;

(ii) In any other case, 1 metre above ground level;

The proposed gates are set back from the highway and not adjacent to the highway.

(b) The height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level;

The gates would be 2 metres from ground level and would not exceed the 2 metre limit.

(c) The height of any gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in paragraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater; or

Not applicable in this application.

(d) It would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.

Not applicable in this application.

8 Conclusion

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

That the Head of Place be authorised to **GRANT A CERTIFICATE OF LAWFUL USE OR DEVELOPMENT** for application APP/23/00530 for the following reasons:

The proposed development falls within permitted development regulations as set out in **Schedule 2, Part 1; Class B, Class C, Class E, Class G** and **Schedule 2, Part 2; Class A** of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Havant Borough Council, as Local Planning Authority, certifies that on 21 June 2023 the development described in the First Schedule to this certificate in respect of land described in the Second Schedule and as shown edged in red on the submitted location plan was lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason(s):

The proposed development falls within permitted development regulations as set out in **Schedule 2, Part 1; Class B, Class C, Class E, Class G** and **Schedule 2, Part 2; Class A** of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

FIRST SCHEDULE:

This certificate relates to the following development:

Certificate of Lawfulness for proposed hip to gable loft conversion with rear dormer and front rooflights, demolition of existing garage to be replaced with garage at the rear, erection of 2 metre gates at the front of the property and installation of flue for log burner as described in the written particulars, plans and other documents submitted with your application comprising the following:

SITE PLAN - P0 (UPLOADED 21/02/2024)
GROUND FLOOR - P1 (UPLOADED 06/12/23)
LOFT - P1A (UPLOADED 06/12/23)
ELEVATIONS - FRONT/REAR - P2 (UPLOADED 14/02/2024)
ELEVATION - RIGHT/LEFT - P3 (UPLOADED 14/02/2024)

SECOND SCHEDULE:

This certificate relates to land at 11 Kings Road, Cowplain, Waterloooville, PO8 8UR as shown edged red on the submitted Location Plan uploaded 21 February 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.