
Site Address: 270 Milton Road, Cowplain, Waterlooville, PO8 8TX
Proposal:
Application for certificate of lawfulness relating to proposed single storey extension
(following removal of existing conservatory), and rear dormer.
Application No: APP/22/00189 Expiry Date: 18/04/2022
Applicant: Mr Kemp
Agent: MR JONES Case Officer: Lewis Ford
 HomeZone
Ward: Hart Plain

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

1 Site Description

The application site is 270 Milton Road, Cowplain, Waterlooville, PO8 8TX.

2 Planning History

None relevant.

3 Proposal

Application for Certificate of Lawfulness relating to a proposed single storey extension
(following removal of existing conservatory) and a rear dormer.

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 relevant for an application for a Certificate of Lawfulness of proposed
development.

6 Community Involvement

Not relevant for an application for a Certificate of Lawfulness of proposed
development.

7 Planning Considerations

- 7.1 Having due regard to the relevant policies in the development plan, it is considered that the main issue arising from this application is the principle of development.

Principle of Development

- 7.2 The proposed development would comprise two parts as follows:

(1) The demolition of the existing rear conservatory and the construction of a replacement extension with a width, depth, and height of approximately 3.23m, 2.2m and 3.625m respectively; and

(2) The construction of a rear dormer.

- 7.3 The proposed single storey rear extension and rear dormer would fall under, and so have been assessed against, **Class A** and **Class B** respectively in **Schedule 2, Part 1 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 to a dwellinghouse, whilst Class B provides permitted development rights for the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. For the avoidance of doubt:

The proposed rear extension has been assessed against Class A; and
The proposed rear dormer and the roof of the proposed rear extension have been assessed against Class B.

Schedule 2, Part 1, Class A - Enlargement, Improvement and/or Alterations of a Dwellinghouse

- 7.4 The proposed single storey rear extension has been assessed against the following criteria and conditions under Class A:

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 rear extension would have an approximate height of 3.625m and would not exceed the height of the highest part of the roof of the existing 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 rear extension would be flush with, and therefore 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.**

The proposed extension would extend beyond the rear wall of the existing dwellinghouse. As such, it would not form part of, nor extend beyond, the principal elevation nor would it front a highway and form a side elevation.

**(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 bungalow and the proposed rear extension would be single storey and extend beyond the rear wall of the original dwellinghouse by approximately 2.2 metres which is under the 4 metre limit.

In terms of Criterion (f)(ii), the proposed rear extension would have a height of approximately 3.625m which is under the 4 metre limit.

(g) For a dwellinghouse not on Article 2(3) land nor on a Site of Special Scientific Interest (SSSI), 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 rear extension. The existing dwellinghouse is a detached bungalow and is not on Article 2(3) land. The proposed rear extension would be single storey, have a height of approximately 3.625m, and would extend beyond the rear wall of the original dwellinghouse by approximately 2.2m. As such, Criterion (g) is not applicable and, instead, Criterion (f) applies – please see above.

(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 rear extension is single-storey and so the above is not applicable.

(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 rear extension would be more than 2 metres from the nearest boundary of the curtilage of the dwellinghouse. Notwithstanding the above, the height of the eaves would be approximately 2.65m so under 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 rear extension would be single-storey and would not extend beyond a wall forming a side elevation of the original dwellinghouse. As such, 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 comprises a conservatory which is proposed for demolition to facilitate the delivery of the proposed single-storey rear extension. As such, Criterion (ja) is not applicable.

(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 rear extension would not comprise any of the elements listed in Criteria (k)(i), (k)(ii) and (k)(iii). As for Criteria (k)(iv), the MHCLG's Permitted Development Rights for Householders Technical Guidance (September 2019) advises that where a proposed extension includes works that would require an alteration to the existing roof (i.e., where the roof of the proposed extension joins the existing roof), then the alterations to the existing roof will need to meet the requirements of Class B or C (as appropriate) to be permitted development. In this instance, Class B is applicable and the roof of the proposed rear extension has been assessed under Class B - please see below.

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.

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

(b) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse.

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

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

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

(ca) 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 existing dwellinghouse and proposed rear extension 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 Application Form states that the proposed development would be constructed of materials to match those used in the construction of the exterior of the existing dwellinghouse.

(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 development comprises a single-storey rear extension and so Condition A.3(b) is not applicable.

(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, as far as practicable, be the same as the roof pitch of the original dwellinghouse.

The proposed development comprises a single-storey rear extension and so Condition A.3(c) is not applicable.

Schedule 2, Part 1, Class B - Additions to Roofs

- 7.5 The proposed rear dormer, and the roof of the proposed rear extension, have been assessed against the following criteria and conditions under Class B:

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 in 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 space which forms the principal elevation of the dwellinghouse and fronts a highway.

The proposed development would not extend beyond the plane of the existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway. All proposed works would be at 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.**

The existing dwellinghouse is a detached bungalow so Criterion (d)(ii) applies. The resulting roof space from both the proposed rear dormer, and the roof of the proposed rear extension, would not exceed the cubic content of the original roof space by more than 50 cubic metres.

(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 comprise any of the above.

(f) The dwellinghouse is on Article 2(3) land.

The existing dwellinghouse and the proposed development are not on Article 2(3) land.

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

(a) The materials used in the any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

The submitted Application Form states that the proposed development would be constructed of materials to match those used in the construction of the exterior of the existing dwellinghouse.

(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; or

(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.

(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.

Condition B.2(b) is not applicable to the roof of the proposed rear extension. However, the condition is applicable to the proposed rear dormer which has been assessed as follows:

The eaves of the original roof would be maintained; and

The edge of the proposed dormer closest to the existing (maintained) eaves would be approximately 1.2 metres which is more than the 0.2 metre minimum; and

No part of the proposed dormer would 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.

The proposed dormer window would be on the rear elevation and so Condition B.2(c) is not applicable.

8 Conclusion

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

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/22/00189 for the following reason:

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

FIRST SCHEDULE:

This certificate relates to the following development:

Application for Certificate of Lawfulness relating to a proposed single storey rear extension (following the removal of the existing rear conservatory) and rear dormer as described in the written particulars submitted on 21 February 2022 and the amended plans submitted on 12 April 2022 which are replicated as follows:

Application Form (21 February 2022)

Drg No: 0802-SK-01 Rev B – Existing & Proposed Floor Plans (12 April 2022)

Drg No: 0802-SK-02 Rev B – Existing & Proposed Roof Plans (12 April 2022)

Drg No: 0802-SK-03 Rev B – Existing & Proposed Elevation Plans (12 April 2022)

Drg No: 0802-SK-04 – Location Plan (21 February 2022)

SECOND SCHEDULE:

This certificate relates to land at 270 Milton Road, Cowplain, Waterlooville, PO8 8TX as shown edged red on the submitted Location Plan received on 21 February 2022.

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.