
Site Address: 36 Penhurst Road, Havant, PO9 3NX
Proposal:
Application for certificate of lawfulness relating to proposed loft conversion.
Application Type: Certificate of Lawfulness
Application No: APP/22/00929 Expiry Date: 21/11/2022
Applicant: Mr Quinn
Agent: Mr Humphrey Case Officer: Lewis Ford
Mel Humphrey RICS C.Build E
MCABE
Ward: Bedhampton

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

1 Site Description

The application site is 36 Penhurst Road, Havant, PO9 3NX. The locality is predominantly residential in nature and the site, itself, includes an end-of-terrace, two storey, dwellinghouse of traditional brick and tile construction.

2 Planning History

HWU/00094 – PERMISSION in October 1948 for the erection of 45no. houses at Penhurst Road, Belmont Estate, Bedhampton, Hants.

HWU/01700 – PERMISSION in February 1952 for the erection of 5no. pairs of semi-bungalows and 4no. houses on land at Penhurst Road, Bedhampton, Hants.

HWU/01778 – PERMISSION in April 1952 for the erection of a block of 4no. houses at Penhurst Road, Belmont Estate, Bedhampton, Hants.

HWU/01954 – OUTLINE PERMISSION in September 1953 for the layout for the erection of 141no. dwellings at Belmont Estate, Bedhampton.

23442 – PERMISSION in May 1973 for the extension to the kitchen at 36 Penhurst Road, Havant, Hants

3 Proposal

Application for certificate of lawfulness relating to proposed loft conversion.

4 Policy Considerations

National Planning Policy Framework (NPPF)
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 for proposed development.

6 Community Involvement

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

7 Planning Considerations

- 7.1 In having due regard to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) – hereon referred to as the **GPDO** – and the relevant policies in the development plan, it is considered that main issue arising from this application is the principle of development.

Principle of Development

- 7.2 The proposed development would comprise the following:

- (1) A hip-to-gable roof extension; and
- (2) 1no. rear dormer; and
- (3) 3no. front velux roof lights.

- 7.3 A search of the planning history of the site (see Section 2 above) has not revealed any conditions that would restrict the permitted development rights (PDR) set out in the GPDO. As such, the proposed development has been assessed against **Class B** and **Class C** in **Schedule 2, Part 1** of the **GPDO**.

Schedule 2, Part 1, Class B - Additions to the Roof

- 7.4 **Class B** provides permitted development rights (PDR) for the enlargement of a dwellinghouse consisting of an addition and/or alteration to its roof. The proposed (1) hip-to-gable roof extension and (2) 1no. rear dormer 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 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 (1) hip-to-gable roof extension and (2) 1no. rear dormer would not extend beyond the plane of the existing roof slope on the principal (front) elevation of the dwellinghouse (which also fronts the highway). As for the proposed 3no. front velux roof lights, these have been assessed under Schedule 2, Part 1, Class C of the GPDO – see below.

(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 property is an end-of-terrace dwellinghouse and so the “resulting roof space” must not exceed 40 cubic metres in order to comply with the above criterion. The submitted “Proposed Floor Plans and Elevations” (Published 30 September 2022) alludes to a resulting roof space of approximately 38.89 cubic metres. The case officer’s own calculations using the Planning Portal’s “Volume Calculators” equate to approximately 39.8 cubic metres. Both calculations are below 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.**

In terms of Criterion (e)(i), the proposed development would not comprise the construction or provision of a veranda, balcony, and/or raised platform.

As for Criterion (e)(ii), the installation, alteration and/or replacement of a chimney, flue, and/or soil and vent pipe are covered under Schedule 2, Part 1, Class G of the GPDO. The dwellinghouse is not on Article 2(3) land. In this instance, the existing chimney would be removed; and the soil and vent pipe would not exceed the highest part of the roof.

(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).

This is not applicable to the proposed development.

(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).

This is not applicable to the proposed development.

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 submitted “Design and Access Statement” (Published 30 September 2022) states that “all materials are similar in appearance to the existing dwelling”. The submitted “Proposed Floor Plans and Elevations” also confirms that the proposed (1) hip-to-gable extension and (2) 1no. rear dormer would comprise roof tiles and vertical tile hanging to match 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; 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.

(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 be 0.2m 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.

The proposed development would not comprise any windows on the proposed gable wall / side elevation of the main dwellinghouse. Notwithstanding the above, the submitted “Design and Access Statement” (Published 30 September 2022) confirms that any side facing windows would be obscure glazed, and would either be fixed shut or only open if 1.7 metres above floor level.

Schedule 2, Part 1, Class B - Other Alterations to the Roof

- 7.5 **Class C** provides permitted development rights (PDR) for any other alteration to the roof of a dwellinghouse – i.e., the installation of roof lights etc. The (3) 3no. front velux roof lights have been assessed against the following criteria under Class C:

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 velux roof lights would not 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.

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

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

(d) It would consist of, or include –

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

(ii) The installation, alteration or replacement of solar photovoltaics or solar thermal equipment.

In terms of Criterion (d)(i), the installation, alteration and/or replacement of a chimney, flue, or soil and vent pipe are covered under Schedule 2, Part 1, Class G of the GPDO. The dwellinghouse is not on Article 2(3) land. In this instance, the existing chimney would be removed; and the soil and vent pipe would not exceed the highest part of the roof.

As for Criterion (d)(ii), the proposed development would not comprise the installation, alteration, or replacement of solar photovoltaic panels or solar thermal equipment.

(e) The dwellinghouse is built under Part 20 of this Schedule (Construction of New Dwellinghouses).

This is not applicable to the proposed development.

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 –

(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 would not comprise any windows on the proposed gable wall / side elevation of the main dwellinghouse. Notwithstanding the above, the submitted "Design and Access Statement" (Published 30 September 2022) confirms that any side facing windows would be obscure glazed, and would either be fixed shut or only open if 1.7 metres above floor level

8 Conclusion

- 8.1 The proposed development would fall within the permitted development allowances as set out under Schedule 2, Part 1, Class B and Schedule 2, Part 1, Class C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, a Lawful Development Certificate (LDC) **can** be issued.
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9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/22/00929 for the following reason:

The proposed development falls within the permitted development allowances as set out under Schedule 2, Part 1, Class B and Schedule 2, Part 1, Class C 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 proposed loft conversion as described in the written particulars and plans published on 26 and 30 September 2022 which are replicated as follows:

Application Form
(Published 30 September 2022)
Design & Access Statement
(Published 30 September 2022)
Drg No: 2022/143 – Site Plan
(Published 26 September 2022)
Drg No: 2022/143 – Existing Floor Plans and Elevations
(Published 30 September 2022)
Drg No: 2022/143 – Proposed Floor Plans and Elevations
(Published 30 September 2022)

SECOND SCHEDULE:

This certificate relates to land at 36 Penhurst Road, Havant, PO9 3NX as shown edged red on the submitted Site Plan published on 26 September 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.