

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		JJ	06/06/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		AN	06/06/24
Assistant Planner final checks and despatch:		ER	06/06/2024

Application: 24/00546/LUPROP **Town / Parish:** Clacton Non Parished

Applicant: Mr and Mrs M Smith

Address: 1 Bramwood Road Clacton On Sea Essex

Development: Application for Lawful Development Certificate for Existing Use or Development for C3 - Dwellinghouses for loft conversion with rear dormer and front facing roof lights.

1. Town / Parish Council

N/A

2. Consultation Responses

N/A

3. Planning History

15/30308/PREAPP	Pre application for outline planning permission for up to 48 three bedroom bungalows with single access/egress onto Thorpe Road.		13.04.2016
16/02107/FUL	Demolition of existing dwelling and erection of 47 no. bungalows and 2 no. houses with garages, access and public open space.	Approved	20.10.2017
18/00735/FUL	Variation of Condition 2 of planning permission 16/02107/FUL to substitute approved drawings with new drawings to include additional garages, changes to the detailed design and boundary treatments, pumping station and amended drainage strategy, and details to discharge conditions 3, 8, 9, 15, 17, 18, 19, 22, 23, and 24 of 16/02107/FUL.	Approved	05.12.2018
24/00546/LUPRO P	Application for Lawful Development Certificate for Existing Use or Development for C3 - Dwellinghouses for loft conversion with rear dormer and front facing roof lights.	Current	

4. Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Local Plan 2013-33 and Beyond (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any Neighbourhood Plans that have been made and the Minerals and Waste Local Plans adopted by Essex County Council.

5. Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

6. Relevant Policies / Government Guidance

Not required

7. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site comprises of a two storey detached property located on the corner of Bramwood Road and Thorpe Road. The application site is within the Settlement Development Boundary.

Description of Proposal

Proposed loft conversion with rear dormer and front facing roof lights.

Assessment

For the purposes of determining this application for a certificate of lawful development for a proposed use, the main considerations are;

- Planning History;
- General Permitted Development Order Class A, B and C

Planning History

No conditions have been found on any previous application relating to the site which restrict permitted development rights. The application site therefore benefits from permitted development rights.

General Permitted Development Order

The aim of this application is to establish whether or not this development would require planning permission. The certificate issued would state that the development is lawful and not at risk of being subject to enforcement action. To establish whether the proposed development is permitted development reference needs to be made to The Town and Country Planning (General Permitted Development) Order 2015.

The proposed internal alterations to create the loft conversion will be assessed under Class A. The proposed dormer window will be assessed under Class B. The proposed roof lights will be assessed under Class C.

Internal Alterations to create loft conversion

Class A - the enlargement, improvement or other alteration of a dwellinghouse

A.1 Development is not permitted if as a result of the works-	Caught By Criterion?
(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);	N
(b) 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);	N
(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;	N
(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;	N
(e) the enlarged part of the dwellinghouse would extend beyond a wall which (i) fronts a highway, and (ii) forms either the principal elevation or a side elevation of the original dwellinghouse;	N N
(f) subject to paragraph (g) , 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;	N N
(g) until 30th May 2019, 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;	N N
(h) the enlarged part of the dwellinghouse would have more than one storey and would— (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;	N N
(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;	N
(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 one storey, or (ii) have a width greater than half the width of the original dwellinghouse; or	N N N

(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);	N
(k) it would consist of or include — (i) the construction or provision of a veranda, 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.	N N N N
A.2 In the case of a dwellinghouse is on article 2(3) land development is also not permitted by Class if —	YES / NO
(a) it would consists of or include the cladding of any part of the exterior of the dwellinghouse with, artificial stone, pebble sash, render, timber, plastic or tiles;	N
(b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or	N
(c) the enlarged part of the dwellinghouse would have more than one storey and extend beyond the rear wall of the original dwellinghouse.	N
(d) 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 (b) and (c).”;	N

A.3 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;	N
(b) any upper-floor window located in 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; and	N N
(c) where the enlarged 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.”;	N

Loft Dormer

Class B – The enlargement of a dwellinghouse consisting of an addition or alteration to its roof

B.1 Development is not permitted by Class B if as a result of the works, the additions and alterations to the roof of the dwellinghouse -	Caught By Criterion?
(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);	N
(b) would exceed the height of the highest part of the existing roof;	N
(c) would extend beyond the plane of any existing roof slope which forms the principal elevation and fronts a highway;	N
(d) the cubic content of the resulting roof space would exceed the cubic content of the original roofspace by more than – (i) 40 cubic metres in the case of a terrace house, or	

(ii) 50 cubic metres in any other case;	N
(e) would consist of:	
(i) the construction or provision of a veranda, balcony or raised platform, or	N
(ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe;	N
(f) the dwellinghouse is on article 2(3) land.	N

B.2 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;	N
(b) (b) the enlargement must 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	N
(bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and	N
(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; and	N
(c) any windows inserted on a wall or roof slope forming a side elevation of the dwellinghouse shall be—	
(i) obscure glazed, and	N
(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.	N

Roof Lights

Class C – Any other alteration to the roof of a dwellinghouse

C.1 As a result of the works, the additions and alterations to the roof of the dwellinghouse -	Caught by Criterion?
(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);	N
(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;	N
(c) it would result in the highest part of the alteration being higher than the highest part of the original roof; or	N
(d) it would consist of or include—	
(i) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or	N
(ii) the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.	N

C.2 Conditions	Applicable?
-----------------------	--------------------

Any window located on a roof slope forming a side elevation of the dwellinghouse shall be:	
(a) obscure-glazed; and	N
(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.	N

Other: Have permitted development rights been removed by way of a condition?	NO
--	----

Ecology and Biodiversity

General duty on all authorities

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: “For the purposes of this section “the general biodiversity objective” is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England.” Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined above. An informative has been imposed strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests.

Biodiversity net gain

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications for Lawful Development Certificates this proposal is not therefore applicable for Biodiversity Net Gain.

Protected Species

In accordance with Natural England’s standing advice the proposed development site and surrounding habitat have been assessed for potential impacts on protected species. It is considered that the proposal is unlikely to adversely impact upon protected species or habitats.

Conclusion

In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

Conclusion

It is therefore concluded that the proposal is permitted development and therefore a Certificate of Proposed Lawful Development can be issued.

8. Recommendation

Lawful Use Certificate Granted

9. Conditions

- 1 The proposed development constitutes permitted development by virtue of the provisions of Schedule 2, Part 1, Classes A, B and C of The Town and Country Planning (General Permitted Development) (England) Order 2015.

10. Informatives

Ecology Informative

In accordance with the Council's general duty to conserve and enhance biodiversity, you are strongly encouraged to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Suggested enhancements could include: <https://www.rhs.org.uk/wildlife/in-the-garden/encourage-wildlife-to-your-garden>

11. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
--------------------	---	---------

12. Notification of Decision

Are there any letters to be sent to applicant / agent with the decision? If so please specify:		NO
Are there any third parties to be informed of the decision? If so, please specify:		NO