

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	ER	04/10/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO	
Team Leader authorisation / sign off:	ML	04/10/2024
Assistant Planner final checks and despatch:	ER	04/10/2024

Application: 24/01044/LUPROP **Town / Parish:** Harwich Town Council

Applicant: Mrs Barbara Cook

Address: 27 Kings Quay Street Harwich Essex

Development: Application for Lawful Development Certificate for Proposed Use or Development for repairs to the first floor of the rear annex following a fire.

1. Town / Parish Council

Harwich Town Council Harwich Town Council makes no objections to this application.

2. Consultation Responses

Not applicable

3. Planning History

LB/TEN/24/88	Renovation of property	Approved	28.06.1988
LB/TEN/5/85	Conversion of first floor rear bedroom into passageway to stairs and bathroom	Approved	19.03.1985
00/01303/LBC	Fencing in accordance with drawing No. 004.2/1 and painting front walls of house as attached schedule	Approved	08.09.2000
00/01529/FUL	Front railings	Approved	23.10.2000
24/01044/LUPRO P	Application for Lawful Development Certificate for Proposed Use or Development for repairs to the first floor of the rear annex following a fire.	Current	

4. Officer Appraisal (including Site Description and Proposal)

Applications Site

The application site comprises of a two storey Grade II Listed Building located within the development boundary and Harwich Conservation Area. The house benefits from a rear extension with elements currently in disrepair due to fire damage.

Proposal

This application seeks the granting of a lawful development certificate for repairs to the first floor of the rear annexe following a fire.

It is noted that whilst the description refers to the works being a 'like for like' repair when assessing the information provided the works would result in the rebuild of large elements of the building as well as exterior alterations which would go beyond the scope of such.

Assesment

This application seeks a Lawful Development Certificate for a proposed development, in this case a single storey rear extension.

A lawful use certificate is, 'a certificate issued by a local planning authority, on application, stating that an existing (LDC 191) or proposed use (LDC 192), or other forms of development, can be considered as lawful for planning purposes'.

- Planning History
- General Permitted Development Order

Planning History

The application house was constructed prior to 1948 which predates planning and therefore allows for its permitted development rights to remain intact.

General Permitted Development Order

This application seeks a lawful development certificate for a proposed development, relating to the erection of a repairs to the first floor of the building following significant fire damage. 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.

The Town and County Planning Act confirms the meaning of development as below:

“(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(1A) For the purposes of this Act “ building operations ” includes—

(a) demolition of buildings;

(b) rebuilding;

(c) structural alterations of or additions to buildings; and

(d) other operations normally undertaken by a person carrying on business as a builder.”

The proposal will result in the rebuild of a significant amount of the building and its roof which when assessed against the above definition of development is considered to go beyond typical repair works. On this basis the re-building of the annexe, constitutes development and will be assessed below accordingly.

To establish whether the proposed development is permitted development reference needs to be made to The Town and Country Planning (General Permitted Development) (England) Order 2015.

It is noted that the proposed element of the building receiving these repairs is attached the house and will therefore be assessed under Class A of the GPDO as below.

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

A.1 Development is not permitted if as a result of the works;

(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);

Not Applicable. The proposal complies.

(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);

The total area covered by the proposal and existing building will not exceed 50% of the total area. The proposal complies.

(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 height of the proposed extension will not exceed the height of the highest part of the roof of the existing dwellinghouse. The proposal complies.

(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 eaves height of the proposed extension will not exceed that of the existing. The proposal complies.

(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;

The proposal is to the rear and therefore the above is non applicable.

(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;

The proposal does not extend beyond the rear wall of the dwellinghouse by more than 4 metres and does not exceed 4 metres in height. The proposal complies

(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 proposal does not extend beyond the rear wall of the dwellinghouse by more than 8 metres and does not exceed 4 metres in height. The proposal complies.

(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 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 proposal comprises of alterations to the first floor however does not seek to extend it. The proposal therefore complies.

(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 proposal does not result in the enlargement of the house and therefore the above is not applicable.

(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**
- (iii) have a width greater than half the width of the original dwellinghouse; or**

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);

Any total enlargement does not exceed the limits set out above. The proposal complies.

(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.**

The proposal does not include the installation of those elements mentioned above. The proposal complies.

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

The dwelling house was not built under part 20 of this Schedule. The proposal complies.

A.2 In the case of a dwellinghouse on article 2(3) land development is also not permitted by Class A if —

(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;

The plans confirm that the proposal will be clad with stained timber boarding and is located within the conservation area serving Harwich. The proposal therefore fails this section of the criteria.

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

The proposal does not result in an enlargement of the house, the above is therefore not applicable.

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

The proposal does not result in an enlargement of the house, the above is therefore not applicable.

(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).

The proposal complies.

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;

The proposal will be constructed using materials of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. The proposal complies.

(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

Not applicable.

(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."

Not applicable.

Listed Building Consent

The plans show that the proposal will result in a rebuild of large elements of the existing building which go beyond the scope of "like for like" repairs and therefore it should be noted that an application for Listed Building Consent will be required in this instance.

Other Considerations

Harwich Town Council makes no objections to this application.

Conclusion

Having assessed the proposal against the criteria for the above legislation, the alterations will allow for cladding of the exterior of the building which is located within the conservation area. As such, it fails to meet criteria to be classed as Permitted Development, and a full planning application is therefore required.

5. Recommendation

Proposed Lawful Development Certificate - Refusal

6. Reasons for Refusal

1 The Town and County Planning Act states that proposals which include “re building” elements would constitute as development. The proposal will result in the rebuild of the existing annexe going beyond repairs established by the meaning of development and therefore requiring planning permission.

The existing house is located within the Harwich Conservation Area and the proposal includes the cladding of the exterior of the building with timber boarding. As such it fails to meet criterion A.2 (a) for Permitted Development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.

The proposal goes beyond the scope of "like for like" repair work and therefore Listed Building Consent will also be required.

7. Informatives

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

- SITE PLAN - REC'D 12/08/24
- 44790IPLS-02
- 44790IPLS-03
- CG23/061/100 P1
- CG23/061/101 P1
- BAKERS OF DANBURY ANNEX QUOTE - REC 12/08/2024

8. 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	Analysis	Impact
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Characteristics *		
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

9. 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
Has there been a declaration of interest made on this application? No Declarations Of Interest Made		NO