

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	ER	27/11/2024
EIA Development - Notify Planning Casework Unit of Decision:	No	
Team Leader authorisation / sign off:	ML	28/11/2024
Assistant Planner final checks and despatch:	ER	28/11/2024

Application: 24/01555/LUPROP **Town / Parish:** Harwich Town Council

Applicant: Karalius

Address: 9 Talbot Street Harwich Essex

Development: Application for Lawful Development Certificate for Proposed Use or Development for proposed loft conversion with L shaped dormer to the rear elevation.

1. Town / Parish Council

Not required for this type of application.

2. Consultation Responses

Not required for this type of application.

3. Planning History

24/00368/LUPRO P	Application for Lawful Development Certificate for Proposed Use or Development for proposed rear dormer loft extension and skylight.	Refused	17.04.2024
24/00369/FULHH	Householder Planning Application - single storey rear extension, fenestration changes (including new windows to the side and rear elevations), new recessed front door and re-rendering the external walls.	Approved	31.05.2024
24/00930/FULHH	Second floor rear addition.	Refused	13.08.2024

4. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site comprises of an end terraced dwelling situated within the development boundary of Harwich and Dovercourt.

Proposal

This application seeks confirmation as to whether the proposed installation of a rear dormer extension can be considered as permitted development.

Site History

The application dwelling was erected prior to 1948 and therefore benefits from having its permitted development rights still intact.

A previous lawful development certificate under planning reference 24/00368/LUPROP was assessed by the Local Planning Authority. This application was not considered to be compliant with the requirements of the GPDO and therefore was refused.

This new application now shows that the proposal will extend beyond the roof slope and external face of the wall.

Assessment

Dormer Extension

General Permitted Development Order:

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

This states that development is not permitted by Class B if as a result of the works, the additions and alterations to the roof of the dwellinghouse;

- (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);

The use of the dwelling has not been granted by virtue of the above classes.

- (b) Would exceed the height of the highest part of the existing roof;

The proposed dormer will not exceed the height of the existing roof.

- (c) Would extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;

The proposed dormer is to the rear, not fronting 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 cubic content of the resulting roof space is under the 40 cubic metres allowed.

- (e) it would consist of or include -
 - (i) the construction or provision of a veranda, balcony or raised platform, or
 - (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or

The proposed works do not include any of the above.

- (f) the dwellinghouse is on article 2(3) land.

The dwelling is not on article 2(3) land.

Conditions relating to Class B include;

(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 permitted development rights for householders' technical guidance provides further clarification on this condition as detailed below;

"the face and sides of a dormer window should be finished using materials that give a similar visual appearance to existing house. So, the materials used for facing a dormer should appear to be of similar colour and design to the materials used in the main roof of the house when viewed from ground level. Window frames should also be similar to those in the existing house in terms of their colour and overall shape."

The existing house is finished in render with a tile hung roof.

The plan provided confirms that the proposal will be tile hung to be consistent with the existing roof slope.

- (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 of a rear or side extension;
 - aa) the eaves of the original roof are maintained or reinstated.

The proposed plans show that the new dormer window will cut through the existing eaves of the house and no evidence/ clarification has been provided to justify the positioning or if the impact on the existing eaves. The proposal therefore does not comply.

- bb) the edge of the enlargement closest to the eaves of the original roof is, so far as is practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outer edge of the eaves; and

The proposal will cut through the existing eaves of the building and therefore will be within 0.2m of those on the existing house. The proposal does not comply with this condition.

- (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 dwelling.

The proposed dormer window will project beyond the roof of the main house; however, due to its depth elements will extend beyond the rear wall of the main house and therefore does not comply with this condition.

- (c) any windows 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 1.7m above the floor of the room in which the window is installed.

The proposal complies with the above.

Interpretation of Class B

B.3 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.

B.4 for the purposes of paragraph B.2(b)(ii) roof tiles, guttering, fascias, barge boards and other minor roof details overhanging the external wall of the original dwellinghouse are not to be considered part of the enlargement.

As the proposed dormer window extends beyond the wall of the main house the proposal will also be assessed under Class A.

- (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);

Not applicable.

- (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 buildings will not exceed 50% of the total area.

- (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 dwelling.

- (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 proposed extension will cut through the eaves of the main house and the roof will protrude beyond these making the eaves of the former higher than the eaves of the existing house. The proposal therefore does not comply.

- (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 proposed extension will not extend beyond a wall which fronts a highway or forms the principal or side elevation of the original dwelling.

- (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;

Not relevant to the proposal.

- (g) 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;

Not relevant to the proposal.

- (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 opposite the rear wall of the dwellinghouse;

The proposed extension complies with the above.

- (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 extension is within 2m to the boundary and the eaves will be higher than 3m.

- (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

The proposed extension is to the rear.

- (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
 - (iii) an alteration to any part of the roof of the dwellinghouse.

The proposal does not include the construction or provision of a veranda, balcony or raised platform or the installation, alteration or replacement of a microwave antenna, chimney, flue, or soil and vent pipe.

A.2

In the case of a dwellinghouse is on article (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;
- (b) The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
- (c) The enlarged part of the dwellinghouse would have more than one storey and extend beyond the rear wall of the original dwellinghouse.

The application site is not situated on article 2(3) land.

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 proposed materials to be used will match those used in the existing dwelling.

- (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

The proposal complies.

- (c) where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part shall, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

The proposal complies.

Conclusion

The proposal fails to comply with the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1:

Class A (points d and i) as -

The eaves will exceed the eaves height of the existing dwelling.

The eaves height will exceed 3m in height and the proposed enlargement will be within 2m to the boundary.

Class B (condition b) as -

The proposal will cut through the existing eaves of the roof slope preventing them from being maintained or reinstated.

The proposal will also be within 0.2m of the eaves and will extend beyond the external face of the original dwelling.

5. Reason for refusal

The proposal fails to comply with the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1 as follows -

Class A (points d and i) as -

- The eaves will exceed the eaves height of the existing dwelling.
- The eaves height will exceed 3m in height and the proposed enlargement will be within 2m to the boundary.

Class B (condition b) as -

- The proposal will cut through the existing eaves of the roof slope preventing them from being maintained or reinstated.
- The proposal will also be within 0.2m of the eaves and will extend beyond the external face of the original dwelling.

6. 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):

- LC2_101 A
- LC2_100 A
- LC2_100 A
- LC000 A
- E101
- E100
- SITE PLAN AND BLOCK PLAN (Scanned 23rd Oct 2024)
- PLANNING STATEMENT - REC'D 21/10/24

7. 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

8. 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