

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	JJ	05/03/2025
EIA Development - Notify Planning Casework Unit of Decision	N/A	
Team Leader authorisation / sign off:	AN	06/03/25
Assistant Planner final checks and despatch:	ER	07/03/2025

Application: 25/00078/LUPROP **Town / Parish:** Clacton Non Parished

Applicant: Mr Anis Jaleel

Address: 10 Holland Park Clacton On Sea Essex

Development: Application for Lawful Development Certificate for Proposed Use or Development for new first floor rear dormer to form habitable space. Installed with Juliet Balcony doors and balustrade. New pitched roof window to rear slope.

1. Town / Parish Council

Clacton is non parished

2. Consultation Responses

Consultations are not required as part of a Lawful Use Certificate Application

3. Planning History

24/01554/FULHH	Householder Planning Application - New single storey flat roof extension formed to rear extension. Finished in painted render to match the existing dwelling. New sliding doors installed to rear and side walls. Existing outbuilding removed and replaced with new rear extension with pitched roof to match existing dwelling. New full height glazed panel installed to rear wall.	Approved	18.12.2024
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4. Relevant Policies / Government Guidance

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 1, Classes B and C (last checked for updates February 2025)

5. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site comprises of a one and a half storey detached property located to the North West of Holland Park. The site is within the Settlement Development Boundary.

Description of Proposal

First floor rear dormer with Juliet balcony doors and balustrade. New pitched roof window to rear slope.

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 Classes B and C

Planning History

No conditions have been found on any previous application relating to the site which restrict or remove 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 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 rear dormer will be assessed under Class B

Class B – additions etc to the roof of a dwellinghouse

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 G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);

Not applicable. The property to which this application relates was built as a dwelling and has not resulted from a change of use under the provisions of the above-mentioned classes.

- (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 dormer addition does not exceed the height of the ridge line of the main 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 dormer is to be installed on a rear facing roof slope and will not impact a highway fronting principle elevation.

- (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 application relates to a detached property. Part ii is therefore the relevant criterion and the proposal complies as the proposed dormer does not exceed 50 cubic metres in size.

- (e) it would consist of or include –

- i. the construction or provision of a veranda, balcony or raised platform, or

The proposals do not include any of the works listed in i. above. (The permitted development technical guidance confirms that Juliet balconies such as this where there is no platform or external access are not classed as a 'balcony' for the purposes of this assessment)

- ii. the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or

The proposals do not include any of the works listed in ii above.

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

Article 2(3) land is defined as a Conservation Area. The dwelling is not located within a conservation area.

- (g) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses); or

Not applicable. The property to which this application relates was built as a dwelling and has not resulted from the demolition of a building and its replacement with a dwelling under the provisions of Part 20.

- (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).

Class AA does not apply to this dwelling. The dwelling has not been enlarged under the provisions of Class AA (no additional storeys have been added).

Conditions

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

- (a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

The proposal complies as the dormer is clad in hanging vertical tile similar to the existing dwelling.

- (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

- (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

- (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

- (c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must 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 proposal complies with all conditions under B.2

The proposed roof window will be assessed under Class C

ROOF WINDOW - Any other alteration to the roof of a dwellinghouse Schedule 2, Part 1, Class C of the order.

This states that development is not permitted by Class C as a result of the works, the additions and alterations to the roof of the dwelling house;

- a) permission to use the dwelling house 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. The property to which this application relates was built as a dwelling and has not resulted from a change of use under the provisions of the above-mentioned classes.

- 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 alteration will not protrude beyond the roof plane of the original roof by more than 0.15m.

- c) it would result in the highest part of the alteration being higher than the highest part of the original roof; or

The proposed roof window will not be higher than the highest part of the roof.

- d) it would consist of or include-
- (i) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
 - (ii) the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.

The proposal does not include any of the above.

Any window located on a roof slope forming a side elevation of the dwelling house shall be:

- (a) obscure-glazed; and
- (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.

The proposed roof window will not be sited on a side roof slope/ elevation.

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.

6. Recommendation

Lawful Development Certificate Granted

7. Conditions

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

8. Informatives

Lawful Development Certificate - Submitted Plans & Drawings

This Lawful Development Certificate has been assessed against the accompanying plans and documents as listed below:

- Application Form - Received 17.01.25
- Location and Block Plan - Received 17.01.25
- Proposed Outline Plan - Received 17.01.25
- Existing and Proposed Details - Received 17.01.25

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>

9. 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

10. 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