

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	ER	20/03/25
EIA Development - Notify Planning Casework Unit of Decision	N/A	
Team Leader authorisation / sign off:	ML	20/03/2025
Assistant Planner final checks and despatch:	ER	20/03/2025

Application: 25/00154/LUPROP

Town / Parish: Clacton Non Parished

Applicant: Sadie Cullen

Address: 43 Rosemary Way Jaywick Clacton On Sea

Development: Application for Lawful Development Certificate for Proposed Use or Development for loft conversion including roof lights and dormer window.

1. Town / Parish Council

Jaywick is non parished and therefore comments of this nature are not required.

2. Consultation Responses

Not required for this type of application.

3. Planning History

TEN/277/61 – Two Bungalows – Approved – 8th September 1962.

4. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site comprises of a detached chalet bungalow which is set back from its front boundary allowing for parking to the front.

The surrounding area comprises of bungalows and chalet bungalows with some benefiting from front walls

Proposal

This application seeks a lawful development certificate a loft conversion to the main house consisting of roof lights on the right elevation and a dormer window on the left elevation.

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'.

Assessment

Main considerations are;

- Planning history
- General Permitted Development Order
- Other Constraints such as Article 4 directions etc
- Conclusion

Planning History

No conditions have been found on previous planning decisions for the site removing the permitted development rights of the property.

General Permitted Development Order

The proposed dormer window enlargement will be assessed under Class B of the Permitted Development Order:

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 -

(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 proposal complies.

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

The proposal will not exceed the height of the highest part of the existing roof. The proposal complies.

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

The proposal will be located on the side roofslope which does not form the principal elevation of fronts a highway. The proposal complies.

(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 proposal will not exceed the original roofspace by more than 50 cubic metres. The proposal complies.

(e) would consist of:

- 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;

The proposal will not contain any of the above and therefore complies.

(e) the dwellinghouse is on article 2(3) land.

The proposal is not located on article 2 (3) land and therefore complies.

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;

(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 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 1.7 metres above the floor of the room in which the window is installed.

The proposal complies with conditions B.2

The proposed roof lights will be assessed under Class C of the Permitted Development Order:

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:

(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 proposal complies.

(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 proposal will not protrude more than 0.15m beyond the plane of the roof and therefore complies.

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

The proposal will not exceed the highest part of the original roof and therefore complies.

(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 and therefore complies.

C.2 Conditions:

Any window located on a roof slope forming a side elevation of the dwellinghouse 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 plans provided confirm that 3no rooflights will be installed along the northern roofslope of the host dwelling facing 41 Rosemary Way. The supporting plans and design and access statement do not confirm if the proposed rooflights will be completed in obscure glazing and therefore insufficient information has been provided to demonstrate compliance with this part of the criteria. A planning application will be required.

Article 4 Direction

The application site is located within an Article 4 Direction relating to the land located south of Crossways, Jaywick which was imposed in 2010 (and confirmed without modification on 17th January 2011) so as not to be prejudicial to the proper planning of its area or constitute a threat to the amenities of its area. The Article 4 Direction directs that the permission granted by Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 shall not apply to development on the land for...2. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof being development comprised within Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.

As the proposed enlargement of the existing side dormer would fall under Class B of Part 1 of Schedule 2 of the General Permitted Development Order, planning permission is required.

Ecology and Biodiversity

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. Should the application be approved then an informative will be 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 (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.

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.

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

Whilst the proposed dormer window enlargement complies with Class B of the GPDO the building is located within an area subject to an Article 4 direction which removes permitted development allowances for dormer enlargements under Class B. A planning application would therefore be required, and this certificate of Lawfulness of Proposed Use or development is recommended for refusal.

Furthermore, the proposal also includes the installation of 3no rooflights to the side roofslope of the existing building. The plans fail to confirm if these windows will be installed with obscure glazing and 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 therefore fails conditions C.2 (a and b) of Class C of the GPDO and therefore a planning application is required. The application for this lawful development certificate is therefore refused.

5. Recommendation

Refusal

6. Reasons for Refusal

1. The proposal comprises the enlargement of a dwellinghouse consisting of an addition or alteration to its roof which would fall to be considered under Class B of Part 1 of Schedule 2 of the General Permitted Development Order. However, an Article 4 direction is in place which confirms these provisions do not apply to this dwelling as the relevant permitted development rights have been removed. The application for a certificate of Lawfulness of Proposed Use or development is therefore refused.

2. The installation of the proposed rooflights fail to comply with the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 1 Class C Conditions C.2 (a) and (b) as insufficient information has been provided to confirm if the windows will be obscure glazed and 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 therefore requires planning permission and this application for a certificate of Lawfulness of Proposed Use or development is therefore refused.

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 30.01.25

A-001 - Existing Floor Plans And Roof Plan-

A-002 - Existing Elevations

A-003 - Existing Sections

A-004 - Existing 3d Views

A-005 - Demolition - Floor Plans And Roof Plan

A-006 - Demolition - Elevations

A-007 - Demolition - Sections -

A-008 - Demolition - 3d Views

A-009 - Proposed Floor Plans And Roof Plan

A-010 - Proposed Elevations

A-011 - Proposed Sections

A-012 - Proposed 3d Vies

B-001 - Existing Site Plan

B-002 - Existing Block Plan

B-003 - Proposed Block Plan

Design And Access Statement

Evidence Statement

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 Characteristics *	Analysis	Impact
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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