CASE OFFICER'S REPORT

Application Reference:	PL/2023/07306
Application Type:	Lawful development: Proposed use
Site Inspection:	
Consultation ends:	29 August 2023
Case officer:	Kate Bates

Site Address:	17 Home Ground, Royal Wootton Bassett, Swindon, SN4 8NB
Proposal:	Proposed single storey rear extension
Recommendation:	Refuse

Proposal:

The proposal is for a single storey rear extension to this modern detached dwelling within Royal Wootton Bassett.

The plans indicate that the extension will provide a utility and a kitchen area. It is proposed as a flat roof extension the full width of the rear of the dwelling, with a lantern within the flat roof to serve the kitchen. It will extend approximately 2.8 metres from the rear wall of the dwelling house and the height of the top of the lantern is approximately 3.6 metres. A note on the drawing submitted indicates the extension will be constructed in facing brick to match the existing.

The application is a certificate of lawfulness application for the above works, submitted under Section 192 (1) of the Town and Country Planning Act 1990, to establish whether the proposed works are lawful.

Section 192(2) of the Act outlines that “if, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.”

In processing Lawful Development Certificate applications, the onus is on the applicant to provide sufficiently precise and unambiguous evidence to justify the grant of a Certificate. The Local Planning Authority must be supplied with sufficient factual information to allow the application to be determined. The legislation is clear that without sufficient, precise and accurate information, Local Planning Authorities are justified in refusing a certificate.

In order to assess whether the proposal constitutes permitted development, the proposed works would be considered under Class A 'Enlargement, improvement or other alteration of a dwellinghouse,' of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Site Description:

The property is situated within a modern residential area within Royal Wootton Bassett. It is not sited within a Conservation Area, or an Area of Outstanding Natural Beauty, it is not listed or under an article 4 direction.

Planning history research indicates that there are some restrictions to the properties permitted development rights in respect of vehicular accesses, gates/ fences/ walls and means of enclosure, and for extensions to the dwellings.

Policies:

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), specifically, Class A of Part 1, Schedule 2 to the Order.

The Town and Country Planning Act 1990 (Sections 191-193).

Planning History:

N/76/01636/OL Residential development of 550 dwellings to accommodate a population of 1550 approximately together with associated and ancillary facilities, including a primary school, public open space, shops, car parking, roads, sewers, stream improvements and a storm water storage area - refused, allowed on appeal - 05/09/1979
N/83/00158/D (Phase 4 Woodshaw) Reserved matters for 37no. dwellings re siting, means of access, external appearance - permission 25/04/1983 (condition 5 removes permitted development rights for extensions to dwellings).
N/88/01419/FUL Erection of a conservatory - permission 14/07/1988
16/01809/FUL Single storey rear extension - permission 26/04/2016

Consultee Responses:

No consultations undertaken due to the nature of the application.

Community Responses:

No representations received (no consultations undertaken due to the nature of the application).

Assessment:

The proposed single storey rear extension would be assessed under Class A of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Planning history research indicates that permitted development rights for extensions have been removed by condition 5 of planning permission reference N/83/00158/DC. The condition states:

'Notwithstanding the provision of Class I of the Town and Country Planning General Development Orders, 1977-1980, no dwelling shall be extended without the prior written approval approval of the local planning authority'
Reason: To maintain control over such development in the interests of visual and residential amenity.'

It is considered that the wording and intention of this condition was to remove permitted development rights in order to require the submission of a planning application to assess on an individual basis, whether permission should be granted for any extension proposed.

The proposal would not benefit from the permitted development rights associated with Class A, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, therefore the proposal requires an application for planning permission.

Conclusion:

The permitted development rights for extensions to the dwelling under Class A, Part 1, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, would not apply to this particular proposal as permitted development development rights for extensions to dwellings have been specifically removed by condition 5 on application reference N/83/00158/D. As such the proposal does not constitute permitted development and an application for planning permission would be required.

Recommendation:

The works do not constitute permitted development due to the removal of permitted development rights for extensions. It is recommended that the certificate of lawfulness be refused as the works do not constitute permitted development and an application for planning permission would be required.

Refusal Reason(s): (1)

1 The permitted development rights for extensions to the dwelling under Class A, Part 1, Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, would not apply to this particular proposal as

permitted development development rights for extensions to dwellings have been specifically removed by condition 5 on application reference N/83/00158/D. As such the proposal does not constitute permitted development and an application for planning permission would be required.

Informatives: (1)

2 This decision relates to the following plans/ documents:

- Application form received 29/08/2023
- Existing and proposed plans, elevations, section, drawing number 3373/1 received 29/08/2023
- Site Location Plan received 29/08/2023