

APPLICATION FOR A CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT

APPLICATION REFERENCE:	PL/2026/03994
APPLICATION TYPE:	Lawful development: Proposed use
SITE ADDRESS:	1 Astute Place, Corsham, SN13 0EP
DEVELOPMENT DESCRIPTION:	Loft conversion with front and rear dormers
RECOMMENDATION:	PP Required

PROPOSAL

This application seeks a Certificate of Lawfulness (CLP) under Section 192 of the Town and Country Planning Act 1990 (as amended) for a proposed Loft Conversion with Front and Rear Dormers

The application proposes the addition of a large flat-roofed dormer window to the rear roof slope and two smaller dormer windows to the front elevation of the dwelling. The proposed works would create additional accommodation within the roof space and would alter the appearance of both the front and rear roof slopes of the property.

The planning merits of the proposal are not under consideration. The only issue is whether the proposed works constitute "permitted development" (PD) under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [hereafter referred to as "the GPDO"].

RELEVANT LEGISLATION AND POLICY

The statutory framework governing CLP's is set out in Section 192 of the Town and Country Planning Act 1990 (as amended). This section establishes that a proposed development or use is "lawful" if it would not constitute a breach of planning control. A CLP can be granted if the Local Planning Authority is satisfied, on the balance of probabilities, that the proposed development or use would not require planning permission.

The application has been assessed against the relevant criteria set out in Schedule 2, Part 1, Classes A–H of the GPDO 2015 (as amended).

SITE DESCRIPTION

The property is a modern detached dwelling situated on a cul-de-sac on the edge of the town of Corsham. The site does not fall within any designated area, such as a Conservation Area or National Landscape, and the property is neither listed nor subject to an Article 4 Direction. The planning history indicates that permitted development rights have been removed for:

- The installation of windows, dormer windows and rooflights;
- The erection of gates, fences, walls and other means of enclosure; and
- The conversion of garages to habitable accommodation.

REPRESENTATIONS

There is no legal obligation to consult third parties, including Town/Parish Councils or neighbouring properties, for this type of application.

RELEVANT SITE HISTORY

The site has the following relevant planning history:

Proposal / Summary
18/04726/106 - Modification of Planning Obligation Decision - Approve with Conditions Date: 12/9/2019 – Modification of legal agreement dated 16 July 2013 in relation to planning permission N/12/00836/OUT so as to amend trigger point for transferring of extra care land to the Council
17/11945/VAR - Removal/variation of conditions Decision - Approve with Conditions Date: 22/2/2018 – Variation of condition 2 (approved plans) on 15/11889/REM - Change to finished floor levels
15/11882/REM - Reserved Matters Decision - Approve with Conditions Date: 1/3/2016 – Reserved Matters Application for Appearance, Scale, Layout & Landscaping for 29 Dwellings. (Pursuant to Outline Application 15/00058/OUT)
15/00058/OUT - Outline Planning Decision - Approve with Conditions Date: 27/10/2015 – Outline Application for up to 40 Dwellings, Demolition of Existing Buildings & Structures, Car Parking, Open Space With Associated Infrastructure and Access .

ASSESSMENT AND CONCLUSION

Having completed the detailed assessment checklist at Appendix 1 and 2, and based on the submitted plans, supporting information, and a review of relevant constraints (including planning history, Article 4 Directions, and any planning conditions), it is concluded that:

The proposed development comprises the addition of a large flat-roofed dormer window to the rear roof slope and two smaller dormer windows to the front elevation. The proposed development requires planning permission as permitted development rights for dormer windows have been removed by a planning condition attached to planning permission 15/11882. The condition sets out

“Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted in any dwelling of the development hereby permitted. REASON: In the interests of residential amenity of local residents and to ensure that there is adequate on site parking.”

Furthermore, the proposed front dormer windows would not constitute permitted development in any event, as they would project beyond the plane of the roof slope forming the principal elevation and would front a highway.

The proposed development does not fall within the scope of permitted development because permitted development rights have been removed by a planning condition placed on permission 15/11882 and because the proposal fails to meet one or more of the limitations or conditions set out within the relevant class(es) of the GPDO. Specifically: · Part 1, Class B, B.1(c) The proposed development is not considered lawful under Section 192 of the Town and Country Planning Act 1990 (as amended).

RECOMMENDATION

It is recommended that the Certificate of Lawfulness for Proposed Development be REFUSED for the following reasons:

Reason for refusal: The proposed development does not meet the criteria for permitted development under Schedule 2, Part 1, Class B, B.1 (C) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and due to the removal of permitted development rights for dormer windows. Therefore, planning permission is required.

APPENDIX 1 –

Checklist for Householder permitted development under Parts 1, 2 or 14 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

If yes is answered to any of the below questions, then planning permission will be required for the proposal. If not, then proceed to complete the relevant checklist(s) at Appendix 2, 3 and 4.

Constraint	Yes/No/N/A	Notes
Is there an Article 4 Direction removing PD rights for a class within which the proposal falls?	NO	
Is there a condition removing PD rights for a class within which the proposal falls?	Yes	15.11882 – condition 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no window, dormer window or rooflight, other than those shown on the approved plans, shall be inserted in any dwelling of the development hereby permitted.
For the purposes of Part 1, is the property a flat or maisonette?	No	

APPENDIX 2 –

Checklist for Householder permitted development under Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)

Class B – The enlargement of a dwellinghouse consisting of an addition or alteration to its roof		Yes
If yes answer questions below, if no skip to Class C		
Criteria (B.1) – Development is not permitted if:		
(a)	Was the permission to use the dwellinghouse granted Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule?	No
(b)	Would the roof height be increased beyond the highest part of the existing roof?	No
(c)	Would the enlargement extend beyond the plane of the roof slope forming the principal elevation and facing a highway?	Yes
(d)	Would the cubic content of the resulting roof space exceed the cubic content of the original roof space by more than 40m ³ (terraced) or 50m ³ (other)?	No
(e)	Would it include the (i) construction or provision of a veranda, balcony or raised platform, (ii) the installation, alteration or, the installation, alteration or replacement of a chimney, flue or soil and vent pipe?	No
(f)	Is the dwellinghouse is on article 2(3) land?	No
(g)	Was the dwellinghouse built under Part 20 of this Schedule?	No
(h)	Was the dwellinghouse enlarged by virtue of permission granted by Class AA (enlargement of a dwellinghouse by construction of additional storeys)?	No

Criteria (B.2) – Development is permitted by Class B subject to the following conditions:		Yes/No
(a)	Are the materials used in any exterior work of a similar appearance?	Yes
(b)(i)	Is the proposal a hip-to-gable enlargement or a junction with a rear/side extension? (If yes, B.2(b)(i) does not apply.)	No
(b)(i)(aa)	Where applicable, are the eaves of the original roof maintained or reinstated?	Yes
(b)(i)(bb)	Where applicable, is the edge of the enlargement at least 0.2m from the eaves, measured along the roof slope from the outside edge of the eaves?	Yes
(b)(ii)	Where applicable, does no part of the enlargement extend beyond the outside face of any external wall of the original dwellinghouse?	Yes

Criteria (B.2) – Development is permitted by Class B subject to the following conditions:		Yes/No
(c)	Would any upper-floor windows in side elevation be non-obscure/non-fixed shut below 1.7m?	N/A