

## DELEGATED DECISION REPORT

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**SMD/2021/0180**  
**Valid 15/06/2021**

**CLEWLOW BANK HOUSE**  
**HILL TOP**  
**BROWN EDGE**

**LAWFUL DEVELOPMENT**  
**CERTIFICATE APPLICATION**  
**FOR A 2-STOREY REAR**  
**EXTENSION**

**(CERTIFICATE OF**  
**LAWFULNESS - EXISTING)**

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### MAIN ISSUES

Was the development, already carried out, lawful on the date of the application? Specifically, with relation to that question, when the development was carried out was it permitted by Class A, Part 1 of the GPDO 2015, so that on the date of the application no enforcement action could have been taken against it?

### DESCRIPTION OF SITE

Double fronted rendered cottage with a steep gabled roof in a rural location. A pre 1948 two storey outrigger at the rear has been enlarged and altered to increase its width and projection and add a full pitched gable roof. This work was carried out with planning permission SMD/2017/0132.

The subject of this application is a rendered two storey addition adjacent to the development carried out under permission SMD/2017/0132, the addition extends 3m from the rear elevation and has a hipped roof running into and adjoining with the roof of the original dwelling. There is a separation gap of less than a metre between both side by side projections.

### PROPOSAL

The applicant seeks a certificate of existing lawfulness for the development carried out on the basis that, on the date of the application, the development would have been lawful because when it was carried out it was permitted by Class A, Part 1 of the GPDO 2015 – as such the claim is that no enforcement could have been taken against the development on the date of the application.

The applicant has submitted Building Reg completion certificates for both the development carried out with planning permission and the development forming the subject of this application.

Two storey rear addition providing lounge and bedroom extensions (the subject of this app) was started under initial notice dated 27<sup>th</sup> Nov 2018 and completion certificate dated 3<sup>rd</sup> June 2019.

Two storey rear kitchen and bedroom extension (the planning permission development) initial notice dated 16<sup>th</sup> Sep 2019 and completion certificate dated 20<sup>th</sup> Jan 2021.

The development has not been substantially complete for 4 years, Building reg completion certificates confirm, and that is not the applicant's claim.

#### **SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS**

SMD/2015/0322 Two storey rear extension. Refused.

SMD/2017/0132 Rear Extension. Approved.

SMD/2017/0692 Addition to rear extension COLP. Unlawful/Refused

SMD/2018/0113 Rear/side extension COLP. Unlawful/Refused

SMD/2018/0623 New access to garden room. Refsued.

SMD/2018/0625 Garden Room COLP. Unlawful/Refused

#### **CONSULTATIONS**

##### **Publicity**

Site Notice expiry date: 22.07.2021

Neighbour consultation period ends: 22.07.2021

Press Advert: N/A

##### **Public Comments**

None

##### **Town / Parish Comments**

Brown Edge Parish Council: No Objection

#### **OFFICER COMMENTS**

Enlargements, improvements and alterations to a dwellinghouse are permitted by Class A, Part 1, Schedule 2 of the GPDO 2015 so far as they don't exceed the limitations imposed at A.1 of that Part of the Order.

The development carried out does not exceed the height of the highest part of the roof of the existing dwellinghouse, its eaves do not exceed the height of the eaves of the existing dwellinghouse.

The enlargement does not extend beyond a principal elevation. It is two storey but does not extend more than 3m from the rear elevation of the original dwellinghouse or extend to within 7m of any curtilage boundary.

However, A.1 (j) makes it clear that enlargements are not permitted which extend beyond a wall forming a side elevation of the original dwellinghouse and exceed 4m in height or have more than one storey. Although the original pre 1948 rear outrigger has more recently been altered and enlarged with the planning permission, its original, side/east facing flank wall once formed a wall forming a side elevation of the original dwellinghouse and where the subject development, which exceeds 4m and has more than one storey, extended beyond that original side wall it was not permitted by virtue of that limitation.

This is a matter of timing. The detail of the planning permission shows that the original side wall of the pre 1948 outrigger was to be replaced and stepped out, if this work had occurred first before the subject development was carried out then it would not be extending beyond a wall forming a side wall of the original dwelling, rather it would be extending beyond the replacement, stepped out wall of the new planning permission development.

The evidence of the building regs certificates assists us here confirming that the development forming the subject of this application, carried out without planning permission, and providing a lounge and bedroom extension, was carried out first, before the development with planning permission was carried out. A google street view photograph dated May 2019 also shows the subject development apparently complete and the adjacent structure surrounded by scaffold with work in progress.

On that evidence, it is likely therefore, on balance of probabilities, that the subject development commenced and was carried out to the original side wall of the pre 1948 outrigger before its side wall had been replaced and stepped out as part of the planning permission development. There is no evidence to suggest or demonstrate otherwise.



### **CONCLUSION / PLANNING BALANCE**

A certificate cannot be granted. The development was not lawful on the date of the application because it has more than one storey and was built to the side of, and extending beyond, a side wall of the original dwelling – before the planning permission development was carried out. When the development was carried out it was not permitted by the GPDO and the authority could still take action in respect of it.

**OFFICER RECOMMENDATION : REFUSE**

**Case Officer: Ben Hurst**

**Recommendation Date: 25<sup>th</sup> October 2021**

X *B.S. Haywood*

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Signed by: Ben Haywood

**On behalf of Staffordshire Moorlands District Council**