DELEGATED DECISION REPORT

SMD/2022/0213 **Valid 20/04/2022**	**1 SOUTHLOWE AVENUE** **CELLARHEAD** **STAFFORDSHIRE** **ST9 0JA**	**CERTIFICATE OF LAWFULNESS FOR PROPOSED DEVELOPMENT RELATING TO THE PROPOSED ERECTION OF SINGLE STOREY SIDE AND REAR EXTENSIONS** **(CERTIFICATE OF LAWFULNESS - PROPOSED)**

MAIN ISSUES
Whether the proposed development comprises permitted development under Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

DESCRIPTION OF SITE
The application site comprises a two-storey, detached dwellinghouse constructed of brick with a tiled hipped roof. A single storey garage, flush with the front elevation of the dwellinghouse is attached. The garage has a tiled hipped roof, is constructed of brick to match, and is considered part of the original dwelling.

The application site is located on the corner of Southlowe Avenue and Southlowe Road and therefore comprises a triangular-shaped plot that is wider at the front then narrows to the rear. The property follows the same building line as the properties fronting Southlowe Avenue. No. 4 Southlowe Road to the northeast is set back within its plot, with its front elevation in line with the rear elevation of the dwellinghouse at the application site.

The application site is located in the village of Werrington, in a residential area comprising semi-detached and detached two-storey dwellings.

PROPOSAL
The applicant has applied for a Lawful Development Certificate for the proposed construction of a single storey side extension.

Note: The plans submitted are identical to the recently refused planning application SMD/2021/0745, currently subject of an appeal Ref: APP/B3438/D/22/3295491. There was no reference made in the determination of that planning application that the single storey side extension was or could be permitted development.

SITE HISTORY
SMD/2020/0475 Proposed 2-storey side extension and single storey rear extension Refused 16/12/2020

SMD/2020/0727 Proposed 2-storey side extension and single storey rear extension Refused 08/03/2021 - Appeal: Split decision 20/09/2021 Allowed in respect of the single storey rear extension (that the LPA raised no objection) and dismissed in respect of the two storey side extension

SMD/2021/0745 Single Storey Side Extension Refused 14/01/2022. Currently being appealed Ref: APP/B3438/D/22/3295491.

OFFICER COMMENTS
In conformity with the rules stated within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), it is necessary to assess whether the proposed extension to the dwellinghouse adheres to the criteria stated by Schedule 2, Part 1, Class A of the GPDO, to determine whether the householder development is permitted.

Single Storey Side Extension
The dwellinghouse was not granted by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use) and therefore part (a) is not applicable.

In accordance with Class A.1 (b) of the GPDO, the ground coverage of the building combined with the addition of the side extension, the proposed side/rear extension and the extension approved under HNT/2021/0010 would not exceed 50% of the total curtilage of the dwellinghouse.

Class A.1 (c) and (d) confirm that the height of the roof and eaves of the proposed extension cannot exceed beyond the maximum roof height and eaves heights of the existing dwellinghouse; otherwise, the development is not permitted. Neither the height of the roof or the eaves of the single storey extension would exceed the maximum roof or eaves heights of the existing dwellinghouse.

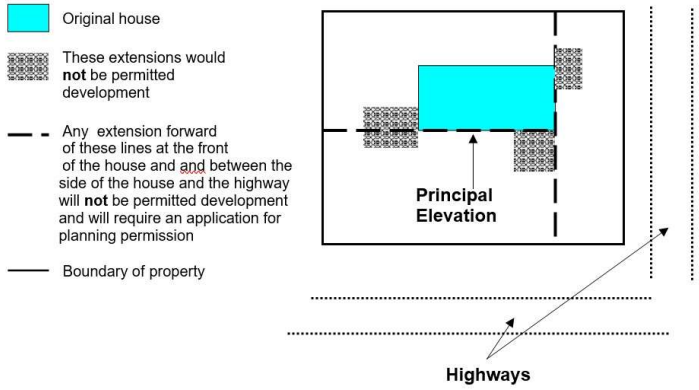
Class A.1 (e.i) it is confirmed that the extension would not be constructed on the principal elevation of the dwelling.

The proposal does not satisfy Class A.1 (e.ii) which states that if the extension fronts a highway, which this proposal does (Southlowe Road) and forms a side elevation of the original dwellinghouse, it cannot satisfy the criteria.

The applicant's agent justifies its compliance by stating that "***The proposed extension will not project forward of the principal elevation (south) of the property and does not extend beyond the wall of a side elevation that fronts a highway. I reach this conclusion having regard to the Permitted Development Technical Guidance (pp.16) and highlight that the angle between the side elevation of the house and the highway of Southlowe Avenue is more than 45 degrees, and the front garden area of the neighbouring property (no.4 Southlowe Road) lies in between the side elevation of the host property and***

the carriageway of Southlowe Road to the west. The side extension does not therefore front a highway (criterion e)."

As stated on page 16 of the Permitted development rights for householders: technical guidance - If a house sits on a corner plot where a side elevation fronts a highway, there will be an additional restriction on permitted development to the side of the house.



Guidance states that he extent to which an elevation of a house fronts a highway will depend on factors such as:

(i) the angle between the elevation of the house and the highway. If that angle is more than 45 degrees, then the elevation <u>will not normally</u> (my emphasis) *be considered as fronting a highway;*
(ii) the distance between the house and the highway - in cases where that distance is substantial, it is unlikely that a building can be said to front the highway. The same may be true where there is a significant intervening area of land in different ownership or use between the boundary of the curtilage of the house concerned and the highway.

In this situation it is considered that the distance is not substantial, and the side of the dwelling sits parallel to Southlowe Road and notwithstanding the intervening area of land falling in different ownership, the property reads as fronting both roads.

Indeed, Inspector Hockenhull when determining the appeal (Appeal Ref: APP/B3438/D/21/3275138) relating to a proposed two storey side extension (SMD/2020/0727) in paragraph 8 of the Decision letter states:
"Due to the orientation of the appeal property and the set back of the neighbouring house at No.4 Southlowe, the proposed extension would be clearly visible from Southlowe Road behind the existing boundary walling and fence. I acknowledge that the proposal would be set back from the highway. However, due to its scale and projection, it would extend beyond the established building line of the existing dwelling and No.4 Southlowe Road, appearing prominent in the street scene. This would impact negatively on the spacious and open character at this road junction."

This confirms the positioning of the host property and that it fronts both roads.



Class A.1 (f) and (g) relate to rear extensions and are therefore not applicable.

The enlarged part of the dwellinghouse does not have more than a single storey and therefore, Class A.1 (h) is not applicable to the proposed development.

Class A.1 (i) states that if the proposed extension would be positioned 2 metres from the curtilage boundary of the dwelling, the eaves height of the proposed extension cannot be above 3 metres. The extension would be sited within 2 metres from the curtilage boundary and the eaves height will be under 3 metres.

Class A.1 (j) states that the enlarged part of the dwellinghouse cannot extend beyond a wall forming a side elevation of the original dwellinghouse, unless it abides by certain criteria. The extension will extend beyond a side wall of the original dwellinghouse and will not have a width greater than half the width of the original dwellinghouse. The height of the extension also cannot exceed 4 metres.

The proposed extension will therefore comply with Class A.1 (j). With regard to Class A.1 (ja), any total enlargement including the addition of further enlargements to existing enlargements, cannot exceed the limits set out in Class A.1 (e) to (j). The proposed extension would extend from the original dwellinghouse and therefore Class A.1 (ja) is not applicable to the proposed development.

The proposed extension would not include the addition of a verandah, microwave antenna, a chimney or flue or the alteration to the existing roof of the dwelling. Therefore, Class A.1 (k) is not applicable.

Class A.1 (l) is not applicable. The existing dwelling was not built under Part 20 of the Order.

The proposed site does not fall within article 2(3) land, therefore Class A.2 does not apply.

In accordance with Class A.3 (a), all proposed materials are set to match those used in the construction of the existing dwelling, whilst A.3 (b) and (c) are not applicable to the proposed extension as it will not have more than one storey.

The proposed single storey side extension will therefore **NOT** comply with Class A, Part 1, Schedule 2 of the GPDO. Failing to satisfy Class A.1 (e.ii).

CONCLUSION / PLANNING BALANCE
For the reasons outlined above, the proposed single storey side extension fails to be considered permitted development under Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015.

OFFICER RECOMMENDATION : Issue a NEGATIVE Certificate

Case Officer: Pet Twigg
Recommendation Date: 31.05.2022

X B.J. Haywood

Signed by: Ben Haywood
On behalf of Staffordshire Moorlands District Council