DELEGATED DECISION REPORT

SMD/2023/0003 **Valid 04/01/2023**	**12 NIGHTINGALE GARDENS** **LEEK**	**APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE FOR A PROPOSED USE OR DEVELOPMENT FOR - REAR PERMITTED DEVELOPMENT EXTENSION TO FORM LARGER LIVING, DINING AND KITCHEN AREA** **(CERTIFICATE OF LAWFULNESS - PROPOSED)**

MAIN ISSUES

Whether or not the proposed single-storey rear extension can be built in accordance with the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and therefore be deemed to be "permitted development" not requiring the submission of a full planning application.

DESCRIPTION OF SITE

The site is in the northern edge of the town, within the development boundary and to the north-east of the town centre. It comprises a small semi-detached two-storey brick and tile dwelling on a modern housing estate built under a 2013 planning permission. The site faces the road to the south-west. The neighbouring attached dwelling lies to the south-east side. A public open space lies to the north-west side. Further dwellings on the estate lie to the rear.

PROPOSAL

This is an application for a Lawful Development Certificate for a proposed development, in this case a single-storey flat-roofed rear extension which projects out from the rear wall of the house by 3.0 metres and spans the whole of the rear wall.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Not relevant. The application for a certificate is to be determined against the Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2013/0714: Full planning permission for 35 dwellings.

CONSULTATIONS

One letter of support from a neighbour has been received.

OFFICER COMMENTS

The applicant is attempting to gain a certificate of lawfulness for the extension which would confirm that it can be built and provided without needing planning permission (i.e would be "permitted development"). The lawfulness of the development (and whether or not this can be deemed to be "permitted development" which does not need planning permission) would be determined against Schedule 2, Part 1 *("*Development within the curtilage of a dwellinghouse") Class A ("enlargement, improvement or other alteration of a dwellinghouse) of Schedule 2 of the General Permitted Development Order (2015) (GPDO) (as amended).

Although this is a house on a modern development, the planning permission for the development does not have a condition which "removed the permitted development rights" under Part 1 Class A of the GPDO and therefore the normal permitted development rights to enlarge the house remain intact for this property.

I am satisfied that the extension conforms with the particular criteria/tests in Part 1 Class A in terms of the dimensions and siting of the extension. For example, regarding the tests affected by the proposal, the dwelling has not been granted consent by virtue of Classes G,M,MA, P, PA, or Q of Part 3 and it would not lead to more than 50% of the land around the house being taken up by development and therefore conforms with Class A (a) and (b). It would not exceed the ridge or eaves height of the existing house in compliance with Class A (c and d), would not exceed a projection of 3.0 metres from an original rear wall (the house has not been extended before) and would not have a total height greater than 4.0 metres (this includes the lantern feature on top of the flat roof) and therefore complies with criteria (f). Part g) and h) are not relevant. Moreover, the extension would not have an eaves height of over 3.0 metres within 2.0 metres of a site boundary and therefore complies with Class A (i). In terms of criteria j) and ja) the extension lies to the rear of the dwelling house is less than 4m in height and there have been no other extension to which it would adjoin.

The site is not in a Conservation Area so therefore Part A.2 does not apply.

It would therefore be deemed to be permitted development in accordance with the conditions outlined in Class A(3). Only one condition would apply for single-storey rear extensions and that is the finishing materials shall be similar to those of the existing house. The finishing materials will be brick to match the house (mostly red brick) and therefore this condition will be met.

CONCLUSION / PLANNING BALANCE

The proposed works would comply with Part 1 Class A of Schedule 2 of the GPDO and therefore a full application for planning permission is not required for the proposed extension. The works are therefore be deemed to be permitted

development that can be built without planning permission and a Certificate of Lawfulness can therefore be granted for the proposal.

OFFICER RECOMMENDATION : **APPROVE THE GRANT OF A CERTIFICATE OF LAWFULNESS**

Case Officer: Chris Johnston
Recommendation Date: 1.3.23

X

Signed by: Jane Colley Signature

On behalf of Staffordshire Moorlands District Council