

DELEGATED DECISION REPORT

SMD/2023/0524
Valid 25/10/2023

ROSSALL
235 LEEK ROAD
ENDON

**APPLICATION FOR A LAWFUL
DEVELOPMENT CERTIFICATE
FOR PROPOSED TWO
STOREY REAR EXTENSION
CONSIDERED TO BE PD AND
SMALL PORCH (UNDER 3M²)**

**(CERTIFICATE OF
LAWFULNESS - PROPOSED)**

MAIN ISSUES

- Whether compliant with GPDO(2015) Schedule 2 Part 1 Class A

DESCRIPTION OF SITE

Detached two storey dwelling with first floor accommodation contained within high steeply pitched roof from ground floor / single storey eaves. The dwelling presents gables to the front and rear with the roof ridge aligned at right angles to the road front / rear garden. A dwelling to the same design stands adjacent at 233 Leek Road to the south west side. To the north west side at 237 Leek Road is a bungalow set further back in its plot so that its front elevation line aligns with the rear elevation wall line of the application property. There are TPO trees within the 237 plot alongside the boundary with the application property.

PROPOSAL

Two storey rear extension identical in cross-sectional profile to the existing building. The extension would be 3m and a first floor window in the rear gable would be of Juliette Balcony design. A porch is propose to the front with a c.1.8m² built area.

Although not mentioned in the application description the plans first showed an existing chimney to be omitted from the proposal scheme. This however has been amended in discussion with the LPA to show the existing chimney retained.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

No policy considerations as the determination is contingent on the provisions of the GPDO(2015).

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

None

CONSULTATIONS

Publicity / Consultation

Publicity / Consultation – none as the determination is based on matter of legal fact.

OFFICER COMMENTS

Principle of Development

If the development proposed is found to be 'permitted', a lawful certificate can be issued.

The GPDO states that the following is "permitted development":

A. The enlargement, improvement or other alteration of a dwellinghouse.

Development not permitted

A.1 Development is not permitted by Class A if—

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);

Complies

(b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

Complies

(c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;

Complies

(d) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;

Complies

(e) the enlarged part of the dwellinghouse would extend beyond a wall which—

(i) forms the principal elevation of the original dwellinghouse; or

(ii) fronts a highway and forms a side elevation of the original dwellinghouse;

Complies

(f) subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—

(i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height;

Does not apply. The dwelling is 2 storey

(g), for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—
(i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height;

Does not apply. The dwelling is 2 storey

(h) the enlarged part of the dwellinghouse would have more than a single storey and—

(i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or

(ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse;

Complies

(i) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;

Complies

(j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—

(i) exceed 4 metres in height,

(ii) have more than a single storey, or

(iii) have a width greater than half the width of the original dwellinghouse; or

Complies

(ja) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j);

Complies

(k) it would consist of or include—

(i) the construction or provision of a verandah, balcony or raised platform,

(ii) the installation, alteration or replacement of a microwave antenna,

(iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or

(iv) an alteration to any part of the roof of the dwellinghouse.; or

(l) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).

Complies

A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if—

(a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;

(b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or

(c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.

(d) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (b) and (c).

Complies

A two storey rear extension is permitted development subject to height not higher than highest part of the existing dwellinghouse roof; eaves not higher than existing eaves; projection of the extension not more than 3.0m; a space of 7m would remain between the extension and any boundary opposite the rear wall of the extended dwelling. There are certain other limiting conditions (as set out above) which it can readily be seen do not restrict this development.

Although the proposal includes a so-called Juliette “balcony” and condition A.1 k (i) would preclude from permitted development any proposal that would “consist of or include the construction of a balcony” it is recognised from the dictionary definition (OED) that a balcony would be attached to the outside of the building as a projecting platform enclosed by a wall or balustrade. The submitted plans here very clearly show that the window is within the building on the interior wall face and the balustrade is in flush alignment with the exterior wall face without projection beyond. Furthermore and conclusively, the Government’s published householder technical guidance for PD states: *A balcony is defined as a platform with a rail, ballustrade or parapet projecting outside an upper storey of a building. A “Juliet” balcony, where there is no platform and therefore no external access would normally be permitted development.*

The porch would be permitted development under Part 1 Class D as it would be less than 3msq in floor area, and would not exceed 3m in height and would not be within 2m of the boundary with the highway. The dwelling house was not built under Part 20 of the GPDO

A.1 (k) (iii) specifically precludes alteration to a chimney and with the amended drawing this is no longer part of the proposal.

Other matters

The assessment of lawfulness only enables the LPA to consider the legal provisions. There is no scope to give further bespoke or independent separate consideration to other matters such as design or neighbour amenity impacts. It has to be accepted that these aspects must be regarded as being sufficiently safeguarded within the provisions of the permitted development criteria. It is against this background that no bespoke consideration is given here to the nearest neighbours either at 233 or 237 Leek Road.

It should be noted that the PD criteria distinguish between a single storey and two storey dwelling. Although this building has ground floor level eaves it very clearly has an original first floor accommodation level contained within the roof slope creating a second storey and it is appropriate to consider it a two storey dwelling on this basis.

CONCLUSION / PLANNING BALANCE

The proposal is found to conform to the requirements of ‘permitted development’ –

subject to the materials of the development being similar in appearance to those of the existing dwelling and this point has been addressed in the annotations to the revised drawing submitted.

OFFICER RECOMMENDATION : Grant certificate of lawful proposed development

Case Officer: Arne Swithenbank

Recommendation Date: 21st Dec 2023

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council