

LDC Report	05/12/2018
Officer	Application Number
Matthias Gentet	2018/4854/P
Application Address	Recommendation
3 Dornfell Street London NW6 1QN	Approve
1st Signature	2nd Signature (if refusal)
Proposal	
Single storey rear extension and rear dormer to dwelling (Class C3).	
Assessment	
<p>The site address is a 2-storey red brick terrace property with roof mansard located to the western end and north side of Dornfell Street, with Ravenshaw Street to the west and Broomsleigh Street to the east. The layout is as follow:</p> <ul style="list-style-type: none"> • Ground Floor – Kitchen, Living Room and Dining Room; • First Floor – 3 x Bedrooms; • Second Floor (Roof Mansard) – 1 x Bedroom. <p>The building is not listed and is not located in a Conservation Area.</p> <p>The application seeks to demonstrate that on balance of probability, the development benefits from permitted development rights.</p> <p>The rear dormer measures approximately 2.89m in height by 3.7m in depth and 4.9m in width - equalling to approximately 26.19m³ (52.39m³ divided by 2) which falls within Class B, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 – paragraphs B.1:</p> <p>Development is not permitted by Class B if—</p> <p>(b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;</p> <p>(c) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;</p> <p>(d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than—</p> <p>(i) 40 cubic metres in the case of a terrace house.</p>	

The rear extension measures approximately 2m in width by 3m in height and 5.4m in depth, and would fall within Class A, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 – paragraphs A.1:

Development is not permitted by Class A if—

(g) until 30th May 2019, 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;

There is also the addition of a flue atop the flat roof of the rear dormer. This element of the proposal would fall within Class G, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 – paragraphs G1:

Development is not permitted by Class G if—

(b) the height of the chimney, flue or soil and vent pipe would exceed the highest part of the roof by 1 metre or more; or

(c) in the case of a dwellinghouse on article 2(3) land, the chimney, flue or soil and vent pipe would be installed on a wall or roof slope which—

(i) fronts a highway, and

(ii) forms either the principal elevation or a side elevation of the dwellinghouse.

Applicant's Evidence

The applicant has submitted the following plans in support of the application:

- 3DS/LDC/01 RevB- Ex & Pre-Ex Elevations & Floor Plans, including a site location plan outlining the application site (06/03/2019)

Council's Evidence

There is relevant planning history on the subject site, as follow:

- **2018/2763/P** – (Prior approval not required granted on 26/07/2018) - Prior approval for the erection of a single storey rear infill extension to dwelling house (Depth: 5.33m; Maximum height: 4.00m; Eaves height: 3.00m).

There is relevant Building Control history on the subject site, as follow:

- **18/2L/06258** – (decided on 29/10/2018) - Loft conversion rear dormer, 12 m/sq single storey extension, rewire, new plumbing & heating.

A site visit to the property was undertaken on the 4th February 2019. It was noticed that only the dormer was fully finished. The rear extension was, however, still in construction and was waiting for the bi-folding doors to be installed. These were being delivered on the day the site visit took place – namely 4th February 2019. Photographs provided on 15th February 2019 clearly show the extension with the bi-folding doors in place and the rear elevation rendered. As such, the officer

is satisfied that the erection of the rear dormer and of the rear infill extension to be existing fixtures.

Assessment

The Secretary of State has advised local planning authorities that the burden of proof in applications for a Certificate of Lawfulness is firmly with the applicant (DOE Circular 10/97, Enforcing Planning Control: Legislative Provisions and Procedural Requirements, Annex 8, para 8.12). The relevant test is the “balance of probability”, and authorities are advised that if they have no evidence of their own to contradict or undermine the applicant’s version of events, there is no good reason to refuse the application provided the applicant’s evidence is sufficiently precise and unambiguous to justify the grant of a certificate. The planning merits of the use are not relevant to the consideration of an application for a certificate of lawfulness; purely legal issues are involved in determining an application.

The Council does not have any evidence to contradict or undermine the applicant’s version of events. It is noted that the flue was installed a time period after the dormer was erected. Therefore, the Council have no evidence to contradict or undermine this statement and therefore the Flue falls under Part G due to the height of the roof being taken from the flat roof of the dormer and not exceeding 1m in height. The documents provided support the permitted development of the alterations to the rear of the property – namely the rear dormer and single storey extension – which were completed on 24/09/2018 (dormer) and prior to 15/02/2019 (rear extension), are compliant with existing lawful status.

The information provided by the applicant is deemed to be sufficiently precise and unambiguous to demonstrate that ‘on the balance of probability’ the single storey rear extension and rear dormer fall under The Town and Country Planning (General Permitted Development) (England) Order 2015, required under the Act. Furthermore, the Council’s evidence does not contradict or undermine the applicant’s version of events.

Recommendation: Approve