

OFFICER DELEGATED REPORT

Reference No.: 23/03119 **Cert of Lawfulness of Proposed Dev**
Proposal: Certificate of lawfulness to determine whether the proposed 1 no. front porch extension, 1 no. side porch extension, 1 no. single storey side extension, 1 no. single storey side/rear extension and 1 no. single storey rear extension is lawful.
Location: Bath Cottage Bath Road Littlewick Green Maidenhead SL6 3QR
Applicant: Mr And Mrs Werakso
Agent: Mrs Bronwen Gombert
Date Received: 15 December 2023
Case Officer: Ritu Singh
Recommendation: Refuse
Parish/Ward: White Waltham Parish Hurley And Walthams

SUMMARY REPORT ON APPLICATION

1.0 INTRODUCTION

- 1.1 This application is of a nature where the Council's Constitution delegates the authority to make the decision to the Head of Planning rather than it being determined by a Panel of Councillors.
- 1.2 By indicating that the development proposal complies with the relevant provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), the planning officer is taking into account the information submitted with the application and any previous relevant applications.
- 1.3 No neighbours were consulted as the application is for a Certificate of Lawfulness of a proposed development the determination of which is based only on the legal issues involved and is not a discretionary matter.

2.0 SUMMARY OF MAIN ISSUES

This application is for a Certificate of Lawfulness for a proposed development. This decision is based only on legal issues involved and is not a discretionary matter. As such Local Plan Policies are not relevant for this application with the determination made only in relation to the relevant provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended); see italicised text below.

Does the site benefit from permitted development rights: Yes

Permitted Development

x2 side extension and a single storey rear extension

Class A

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 M, N, P, PQ or Q of Part 3 of this Schedule (changes of use)***

Permission to use the dwellinghouse as a dwellinghouse has not been granted by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule. **The proposal 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);*

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 not exceed 50% of the total area of the curtilage. **The proposal 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;*

The height of the part of the dwellinghouse enlarged, improved or altered would not exceed the height of the highest part of the roof of the existing dwellinghouse. **The proposal 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;*

The height of the eaves of the part of the dwellinghouse enlarged, improved or altered would not exceed the height of the eaves of the existing dwellinghouse. **The proposal 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*

The enlarged part of the dwellinghouse would NOT extend beyond a wall which forms the principal elevation of the original dwelling. **The proposal 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.*

The enlarged part of the dwellinghouse would have a single storey which would not extend beyond the rear of the dwellinghouse by more than 4 metres of a detached dwellinghouse and would not exceed 4 metres in height. **The proposal complies.**

- (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;*

N/A

- (h) *the enlarged part of the dwellinghouse would have more than one 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;”.

The enlarged part of the dwellinghouse would not have more than one storey. **The proposal 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;*

The enlarged part (west elevation) of the dwellinghouse (where stepped height has been proposed) 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. **The proposal DOES NOT comply.**

- (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 one storey, or*
- (iii) *have a width greater than half the width of the original dwellinghouse; or*

The enlarged parts of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse but would not have a width greater than half the width of the original dwellinghouse. **The proposal 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 subparagraphs (e) to (j)*

- (k) *it would consist of or include -*

- (i) *the construction or provision of a veranda, 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.*

The proposed enlargement does not consist of or include any of the above.

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 one 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 subparagraphs (b) and (c)*

The dwellinghouse is not on article 2(3) land.

Conditions

A.3 Development is permitted by Class A subject to the following conditions -

- (a) *the materials used in any exterior work (other than materials used in the construction of a conservatory) shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;*
- (b) *any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be -*
 - (i) *obscure-glazed, and*
 - (ii) *non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed.*
- (c) *where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse*

Class D – porches

x2 porches (front and side)

This provides permitted development rights for the erection of a porch outside any external door of a house.

D1. Development is not permitted by Class D if –

- a) *permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 2 of this Schedule (change of use)*
Permission to use the dwellinghouse as a dwellinghouse has **not** been granted by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule. **The proposal complies.**
- b) *the ground area (measured externally) of the structure would exceed 3 square metres.*
The ground area (measured externally) of the structure would not exceed 3 square metres. **The proposal complies.**
- c) *any part of the structure would be more than 3 metres above ground level.*
NO part of the structure would be more than 3 metres above ground level. **The proposal complies.**
- d) *any part of the structure would be within 2 metres of any boundary of the curtilage of the dwellinghouse with a highway.*
NO part of the structure would be within 2 metres of any boundary of the curtilage of the dwellinghouse with a highway. **The proposal complies.**

3.0 COMMENTS FROM INTERESTED PARTIES

No neighbours were consulted as the application is for a Certificate of Lawfulness of a proposed, rather than an existing, development the determination of which is based only on the legal issues involved and is not a discretionary matter.

4.0 RECOMMENDATION

The proposal is not automatically granted planning permission under Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), as proposal fails to comply with condition A.1(i) hence an express grant of planning permission is required.

Refuse Certificate of Lawfulness.
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Reasons

- 1 The proposal is not automatically granted planning permission under Article 3 and Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), as proposal fails to comply with condition A.1(i) hence an express grant of planning permission is required.