

DELEGATED DECISION REPORT

HPK/2023/0026
Valid 24/01/2023

10 FORGE CORNER
OUTRAM WAY
CHINLEY

CERTIFICATE OF
LAWFULNESS FOR
PROPOSED USE FOR THE
CONSTRUCTION OF A SINGLE
STOREY REAR EXTENSION.
CONSTRUCTION OF A SINGLE
STOREY SIDE EXTENSION.
CONVERSION OF THE
EXISTING GARAGE INTO
LIVING ACCOMMODATION

(CERTIFICATE OF
LAWFULNESS - PROPOSED)

MAIN ISSUES

- Whether the proposed development complies with the relevant parameters of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
- Whether the proposed development complies with the relevant parameters of Schedule 2, Part 1, Class C of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

DESCRIPTION OF SITE

10 Forge Corner, Outram Way is a large detached dwelling house on a prominent corner plot. The Peak Forest Tramway runs along the southern boundary of the application site.

The dwelling house is a large four bedroom, L-shaped property. The main portion of the house is of two storeys with a single storey garage projecting in front of the property to create the 'L' shape. There is a small parking area to the front of the property, providing space for 2 vehicles. There is a large wrap around garden to the rear of the property, creating a generously sized curtilage.

PROPOSAL

This application seeks to convert the existing garage into a gym space, replacing the existing garage door with a large window. It is also proposed to insert 2 roof lights into the existing garage roof. Revised plans (283_210 rev L; 283_215 rev K; 283_216 rev A) show that the side facing roof light will be obscure glazed and opening above 2 meters from floor level.

It is also proposed to extend the property to the side. This side extension would be 12 in length and project 6 meters beyond the existing side wall. The proposed side extension will be approximately 3.30 meters in height and flat roofed.

Furthermore it is proposed to extend the dwellinghouse to the rear. Like the proposed side extension this will be a flat roofed extension of approximately 3.3 meters in height. This will extend 4 meters from the existing rear wall of the property and measure 6 meters across.

Original plans proposed a porch at the front of the property however this has been removed in revised plans (283_210 rev L; 283_215 rev K; 283_216 rev A).

OFFICER COMMENTS

Original planning permission (HPK/2013/0577) introduced the following condition to the construction of the dwelling house and wider new build estate:

Condition no.8 :

The premises and dwellings, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents, visitors, service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

As such it is required that all parking as originally constructed must be maintained. Therefore the proposed conversion of the garage is considered unlawful as this would reduce the parking provided.

However, in every other regards 10 Forge Corner, Outram Way benefits from permitted development rights. As such, in the event that the proposed extensions comply with Schedule 2, Part 1, Class A, Class C and Class D of the General Permitted Development Order (GPDO), a Certificate for those elements can be granted. An assessment of the proposed development against the relevant criterion of class A is undertaken as follows:

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

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, PA or Q of Part 3 of this Schedule (changes of use);

The property has no planning history that shows any previous change of use. The application is thus compliant with Paragraph A.1 (a)

(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);

The proposed extension would increase the depth of the existing structure by 3 metres. The properties curtilage is narrow but long curtilage and as such the proposed extension will fall considerably below 50 % of the curtilage. The application is thus compliant with Paragraph A.1 (b).

(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 overall height of the proposed extension would sit considerably below the height of the existing dwellinghouse. The application is thus compliant with Paragraph A.1 (c).

(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 proposed extension would sit considerably below the eaves height of the existing dwellinghouse. The application is thus compliant with Paragraph A.1 (d).

**(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 proposed enlargement is to the rear of the property and as such is also compliant with Paragraph A.1 (e).

The proposed side extension fronts the Tramway Trail footpath. A Highway is defined as *an area of land which the public at large have the absolute right to use to 'Pass and Repass without let or hinderance'*. Any area of land where this right exists is therefore equal in status, irrespective of this use made of it or its appearance. Therefore this includes the Tramway Trail footpath. As such the proposed side extension breaches Paragraph A.1 (e).

**(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 proposed rear extension extends 4 meters to the rear from the original dwelling house and will be below 4 meters in overall height. As such the application complies with Paragraph A.1 (f).

(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;**

The proposed rear extension only extends 4 meters beyond the rear wall of the original dwellinghouse and does not exceed 4 meters. Therefore the application complies with Paragraph A.1 (g).

(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 the dwellinghouse;**

Both proposed extensions are of a single storey and therefore complies with Paragraph A.1 (h).

(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;

Neither the proposed side or proposed rear extensions will come within 2 meters of the property boundary. The proposed side extension will be approximately 4.78 m away from the boundary, while the proposed rear extension sits approximately 4.85 meters away from the boundary. As such the application complies with Paragraph A.1 (i).

(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;**

The proposed side extension will be less than 4 meters in height, will be of a single storey and will fall substantially below half the width of the original dwellinghouse. As such Paragraph A.1 (j) is not relevant.

(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)-(j);

The application property has had no previous enlargement. As such Paragraph A.1 (ja) is not relevant in this case.

(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**

The application relates to a single storey rear extension which does not conflict with any of the criteria laid out in Paragraph A.1 (k).

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

10 Forge Corner, Outram Way was not built under Part 20 of Schedule 2 of the GPDO. Therefore the application complies with Paragraph A.1 (l).

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).

The application site is not on article 2(3) lands. As such Paragraphs A.2 (a) through (d) are not relevant in this case.

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) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

Revised plan 283_215 rev J show that the proposed side and rear extensions will be finished in stone to match the existing property, the roofs will be flat, and as such do not require matching roof materials. As such the application complies with Paragraph a.3 (a).

(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 1.7 metres above the floor of the room in which the window is installed; and**

The proposed extensions are of a single storey and do not incorporate any upper floor windows. As such Paragraph A.3 (b) is not relevant in this case.

(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.

The proposed extensions are of a single storey and as such Paragraph A.3 (c) is not relevant in this case.

An assessment of the proposed development against the relevant criterion of Class C is undertaken as follows:

C Any other alteration to the roof of a dwellinghouse.

C.1 Development is not permitted by Class C 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);**

The property has no planning history which shows any previous change of use. The application is thus compliant with Paragraph C.1 (a)

- (b) the alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof;**

The three proposed roof lights will not protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof. The application therefore complies with Paragraph C.1 (b)

- (c) it would result in the highest part of the alteration being higher than the highest part of the original roof;**

The proposed roof lights would not be higher than the highest part of the original roof, thus complying with Paragraph C.1 (c).

- (d) it would consist of or include—**
 - (i) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or**

(ii) the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.;

The proposal will not result in the installation of a chimney, flue or soil and vent pipe or the installation of solar photovoltaics or solar thermal equipment. As such the application complies with Paragraph C.1 (d).

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

The dwellinghouse was not constructed under Part 20 of Schedule 2. As such Paragraph C.1 (e) does not comply.

C.2 Development is permitted by Class C subject to the condition that any window located on a roof slope forming a side elevation of the dwellinghouse must be—

(a) obscure-glazed; and

(b) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Revised plan 283_215 rev K shows that the proposed roof light on the side elevation of the garage, it to be obscured. Revised section drawing 283_217 rev O shows that this window will be opening but is well above 1.7 from floor level. The other proposed roof light will be on the front elevation and as such both windows comply with Paragraph C.2.

An assessment of the proposed development against the relevant criterion of Class D is undertaken as follows:

D The erection or construction of a porch outside any external door of a dwellinghouse.

The porch element of the proposed scheme was removed from revised plans. As such an assessment of Class D is no longer necessary.

CONCLUSION / PLANNING BALANCE

In conclusion, the proposed rear extension and roof alteration is considered to be in accord with Schedule 2, Part 1, Class A and Class C of the GDPO and as such it is recommended that a Certificate be granted in respect of these elements

However, the proposed garage conversion and side extension would not be lawful as there is a condition requiring parking to be retained and the side extension would front a highway.

OFFICER RECOMMENDATION : Split decision

Case Officer: Rachel Robinson

Recommendation Date: 28th February 2023

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council