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The Chief Planning Officer
Horsham District Council,
Parkside,
Chart Way,
Horsham,
West Sussex
RH12 1RL

10th February 2025

Dear Sir/Madam,

RE: ROSE COTTAGE, GARDEN, WOOD CLOSE, WEST CHILTINGTON, WEST SUSSEX, RH20 2NN

This letter in written in support of the application for a Certificate of Lawfulness of Proposed Development by Matthew Smith relating to the above site.

The applicant seeks confirmation of the lawfulness under permitted development rights of a *proposed rear blind dormer extension to the roofslope, raising of rear half gable to full gable and raising of side half gable to full gable*, at an existing dwelling house.

The application comprises this supporting letter, application forms, and existing and proposed plans and elevations including volume calculations. The plans and elevations submitted are:

- 24-J001-001 - P4 Existing and Proposed floor plans and elevations
- 24-J001-002 - P3 Site location plan and block plan

This supporting letter shows that a Certificate of Lawfulness should be granted for the proposed works. The site is described, the proposed works are detailed, and it is shown that the works comply with all relevant permitted development criteria as set out in *The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).*

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THE SITE

Rose Cottage is an existing bungalow located on the north side of Garden Wood Close in West Chiltington. The late twentieth century dwelling is typical of the period with brown/brindle brick elevations beneath a brown concrete tiled roof.



Above: Rose Cottage as viewed from the south

The house is amongst similar dwellinghouses in a cul-de-sac of dwellings built mostly in the 1980's.

- Planning permission for the house was granted in 1984 under reference WC22-84.

- A further consent was then granted in 1987 under reference WC-7-87 for two rooflights to be added to the north and east elevations, with a condition that both rooflights remain obscured glass.

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- In 1988 a further permission was granted under reference WC-10-88 for a conservatory to the side of the house, this conservatory is in situ and can be seen in the photograph above.

- A Lawful Development Certificate was refused in 2024, on the grounds that the proposed works would instal windows in the roof and would therefore not comply with a condition imposed on permission WC22-84.

Rose Cottage is not a listed building, and its extension will not affect any listed building. The site is not within a conservation area, so it is not on Article 2(3) Land where limits to permitted development rights apply. No Article 4 directions restricting permitted development rights have been introduced in this location.

PROPOSED WORKS

The proposed rear roof extension will increase and improve the internal floorspace within the dwelling.

The loft conversion will create space for two bedrooms with en-suite bathrooms.

The enlarged house will have five bedrooms with 3 en-suite shower rooms, two shared bathrooms, and large kitchen and dining room. The enlarged house will be occupied as either a family house (C3) or small house in multiple occupation (C4).

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PERMITTED DEVELOPMENT CRITERIA

To show that the proposed rear extension and loft conversion comply with permitted development criteria, the works are analysed below against the relevant sections of '*The Town and Country Planning (General Permitted Development) (England) Order 2015*'.

The following sections set out how the extensions to the roof comply (comments in blue) with the specified criteria of '*Schedule 2 Part 1 Class B - additions etc to the roof of a dwellinghouse*' follows.

There is no installation of rooflights or windows and will comply with all relevant sections of '*Schedule 2 Part 1 Class C – other alterations to the roof of a dwelling house*'.

'Schedule 2 Part 1 Class B - additions etc to the roof of a dwellinghouse'

Permitted development

B. The enlargement of a dwellinghouse consisting of an addition or alteration to its roof.

Development not permitted

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

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

Comment: Rose Cottage was originally built as a dwellinghouse and has remained in use as such ever since.

(b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;

Comment: The proposed elevations confirm no part of the dormer will be higher than the ridge of the existing roof.

(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;

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Comment: The proposed dormer is to the rear so will not extend beyond the roof plane of the principal elevation.

(d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than—
(i) 40 cubic metres in the case of a terrace house, or
(ii) 50 cubic metres in any other case;
Comment: The resultant roof space created by the L-shaped dormer and gablet extensions, will be 46.31m3, within the 50m3 allowance for a detached house.

(e) it would consist of or include—
(i) the construction or provision of a veranda, balcony or raised platform, or
(ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or
(f) the dwellinghouse is on article 2(3) land.
Comment: No veranda, balcony or raised platform will be created as part of the proposal. No microwave antenna will be installed or altered. No alteration is proposed to the property's chimney nor flues and pipes. As stated above the house is not on Article 2(3) land.

Conditions
B.2 Development is permitted by Class B subject to the following conditions—
(a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
Comment: The dormer will be finished in hanging tiles to match those of the existing main roof.

(b) the enlargement must be constructed so that—
(i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension—
(aa) the eaves of the original roof are maintained or reinstated; and
(bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and

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(ii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and
Comment: The dormer to the main roof is set 200mm up the roofslope from the outside edge of the eaves.

(c) any window inserted on 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.
Comment: No side facing windows are proposed.

Interpretation of Class B
B.3 For the purposes of Class B, "resulting roof space" means the roof space as enlarged, taking into account any enlargement to the original roof space, whether permitted by this Class or not.
Comment: No previous enlargement of the original roof space has occurred.

B.4 For the purposes of paragraph B.2(b)(ii), roof tiles, guttering, fascias, barge boards and other minor roof details overhanging the external wall of the original dwellinghouse are not to be considered part of the enlargement.

'Schedule 2 Part 1 Class C - other alterations to the roof of a dwellinghouse

Permitted development
C. Any other alteration to the roof of a dwellinghouse.

Development not permitted

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

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Comment: Rose Cottage was originally built as a dwellinghouse and has remained in use as such ever since.

(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;
Comment: No insertion of windows in the roof has been proposed as part of this application.

(c) it would result in the highest part of the alteration being higher than the highest part of the original roof; or
Comment: The highest part of the original roof, the ridge, would not be exceeded by the proposed extension.

(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.
Comment: No solar photovoltaics or thermal equipment would be installed on the roof.

Conditions
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.
Comment: No windows are proposed to a wall or roof slope forming a side elevation of the house.

'Schedule 2 Part 1 Class G - chimneys, flues etc on a dwellinghouse'

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Permitted development

G. The installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse.

Development not permitted

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

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

Comment: Rose Cottage was originally built as a dwellinghouse and has remained in use as such ever since.

(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;

Comment: The proposed alterations to the chimney ensure that no part would exceed the highest part of the roof by 1 metre.

(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; or

Comment: As stated above the house is not on Article 2(3) land.

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

Comment: Rose Cottage was originally built with full planning permission as a dwellinghouse and not under Part 20 of this schedule.

Comment: The removal of the existing chimney is considered to be an alteration to the chimney that is permitted by Class G. As stated in an appeal (Ref: 2138092) in February 2011, in the inspector's report, para 9. It was considered by the inspector that *"the word 'alteration' includes the removal of chimneys and chimneys supports, as if this were not the case their removal would be specifically excluded by a more precise definition of the term 'alteration'"*. The appeal report is attached in appendix 1.

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SUMMARY

As the proposed roof extension and rooflights at 52 Rose Cottage, East Chiltington meet all relevant permitted development criteria, Horsham District Council are respectfully asked to issue a Certificate of Lawfulness for the Proposed Development without undue delay.

Yours faithfully

Luke Carter MRTPI
Director
Lewis & Co Planning

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APPENDIX 1 - Appeal decision 2138092

The Planning Inspectorate

WR100-070-940

Case copied by COMPASS under click-use licence

Appeal Decision

by John Parnell

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 21 February 2011

Appeal ref: APP/W5780/X/10/2138092
Site at 366 Ley Street, Ilford, IG1 4AE

- The appeal is made under section 195 of the Town and Country Planning Act 1990, as amended by the Planning and Compensation Act 1991.
- The appeal is brought by Mr Shamsher Singh against the London Borough of Redbridge Council's refusal to grant a lawful development certificate (LDC).
- The Council's reference is 1767/10.
- The application was made under section 192(1)(b) of the 1990 Act, as amended.
- The application, dated 21 July 2010, was refused by the Council on 18 August 2010.
- The proposed development for which an LDC is sought is "loft conversion with rear dormer and one front roof light."

Summary of decision: The appeal is allowed and a Certificate of Lawfulness describing the proposed development which I consider to be lawful is attached to this decision.

Background and Preliminary Matters

1. I have considered the written representations made in support of the appeal, together with those of the Council. Since all the representations have been made available to both parties, I do not intend to summarise them in detail.

2. The appeal property is a two-storey dwellinghouse on a short terrace of houses on the east side of Ley Street. It is located in a largely residential area in the Seven Kings area of North East London. The appellant wishes to provide additional accommodation comprising a new bedroom and shower room by loft conversion with a rear dormer and a velux roof-light window to the front of the premises. The development will also include demolition of chimney stacks in the loft in accordance with the submitted plans[1]. I have considered the appeal accordingly.

Main issue

3. The main issue before me is whether the proposed development requires planning permission or is permitted under the terms of the Town and Country Planning (General Permitted Development) Order 1995, as amended[2] (the GPDO). The relevant standard of proof is the balance of probability, and the burden of proof is on the appellant. The appellant must show that the development would have been lawful at the date of the application.

[1] Viewed on Council Applications website under application reference 1767/10 as drawing No. 14710/RB, sheets 1 to 4.
[2] By The Town and Country Planning (General Permitted Development)(Amendment)(No.2)(England) Order 2008.

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4. The appellant's case is that the proposed development would be permitted under the terms of Classes B and G in Part 1 of Schedule 2 to the GPDO. The dormer extension is said to be permitted by Class B, relating to additions or alterations to the roof of a house, while the removal of the chimney is said to be covered by Class G, relating to the installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse. It is therefore claimed that the development would not exceed the permitted development limitations in Class B or G. The above-roof chimney stack had already been removed by the adjoining neighbours.

5. The Council refused to grant a LDC on the grounds that *"the proposal does not constitute permitted development, as defined by Schedule Article 3, Part 1, Class B of [the GPDO as amended]".*

Reasons

6. Neither party disputes that the proposed "loft conversion with rear dormer and one front roof light"' would constitute development within the meaning of section 55 of the 1990 Act. The GPDO is permissive and the new Class B authorises the enlargement of a dwellinghouse consisting of an addition or alteration to its roof. Class B roof work is not permitted in the circumstances set out in B.1. B.1 (d) (ii) states that permission is not granted by Class B if the development would consist of or include the installation, alteration or replacement of a chimney, flue or soil and vent pipe. The officer's report provided with the Council's questionnaire indicates that the certificate was refused because the proposed development was not considered to meet this criterion.

7. Drawing No. 14710/RB submitted with the application contains notes that I see as being relevant to Building Regulations requirements and providing instructions to the builder. Note 'a' on sheet 2 of 4 states: *"Chimney stacks in loft to be removed. Stack above roof has already been removed as part of work being carried out at 364 Ley Street."* If planning permission were required for any of these works on the basis that they amounted to development as defined in section 55 of the 1990 Act, I consider it is granted is by the amended GPDO at Article 3(1) and Class G.

8. The restrictions in Class B.1(d)(ii) seem to me to indicate that Class B does not grant planning permission for works involving chimneys, flues etc. because planning permission may be given elsewhere - by Class G which specifically addresses *'the installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwellinghouse'*, subject to certain restrictions which do not apply to this case. Class G clarifies the circumstances in which the replacement or alteration of chimneys is authorised if permission were needed. This view is supported by technical guidance from the Department for Communities and Local Government[3], published on the Planning Portal. Under Class B on page 34 the guidance states: *"Installation, alteration or replacement of chimneys, flues or soil and vent pipes will often be necessary when loft conversions are undertaken. Whilst these are not permitted development under Class B of these rules, they may be permitted development under Class G."*

9. Accepting what I take to be the permissive spirit of the GDPO I consider that the word 'alteration' includes the removal of chimneys and chimney supports, as if this were not the case their removal would be specifically excluded by a more precise definition of the term 'alteration'. I can see no good reason to conclude that the purpose of the reference to chimneys in B.1 is to withdraw permitted development

[3] Permitted Development for Householders: Technical guidance (August 2010)

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rights that were previously available to householders, prior to the 2008 Amendment Order, in the circumstances arising in this appeal.

10. To sum up, I conclude that although the work in question, if it involves development, is not permitted by Class B, it is permitted in this case under Class G. Therefore, the development described in the application and detailed in the drawing should not, in my view, be ruled as not permitted overall just because of the restrictions at Class B.1(d)(ii) since Class G grants permitted development rights for flues, chimneys etc.

11. Therefore, my conclusion on this appeal is that the proposal shown on the Drawing No. 14710/RB, sheets 1 to 4 (attached to the application), comprising proposed loft conversion with rear dormer construction including removal of chimney stacks in loft and alterations to rafters and joists, would at the date of the application have been development permitted by Part 1 of Schedule 2 to the GPDO, and would have been lawful. I therefore conclude that the Council's refusal was not well-founded, and the appeal succeeds accordingly.

Formal decision

12. For the reasons given above, in exercise of the power in section 195(2) of the 1990 Act, as amended, which has been transferred to me, I hereby allow the appeal and grant a lawful development certificate for loft conversion with rear dormer construction, as shown in Drawing No. 14710/RB, at 266 Ley Street, Ilford, IG1 4AE. A certificate to this effect is attached to this letter.

Right of appeal against the decision

13. This decision is issued as the determination of the appeal before me. Particulars of the right of appeal against my decision to the High Court are enclosed for those concerned.

John Parnell

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The Planning Inspectorate

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192 (as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995: ARTICLE 24

Decision date: 21 February 2011

IT IS HEREBY CERTIFIED that on 21 July 2010 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

the proposed loft conversion with rear dormer and one front roof light would be permitted development under Article 3 of, and Class B in Part 1 of Schedule 2 to, the Town and Country Planning (General Permitted Development) Order 1995.

Signed ...*John Parnell*.....
JOHN PARNELL

Date ...21.02.2011.....
Reference: APP/W5780/X/10/2138092

First Schedule
The proposed loft conversion with rear dormer and one front roof light as shown in drawing No. 14710/RB, sheets 1 to 4 attached to the application.

Second Schedule
Land at 366 Ley Street, Ilford, Essex, IG1 4AE.

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IMPORTANT NOTES – SEE OVER

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NOTES

1. This certificate is issued solely for the purpose of section 192 of the Town and Country Planning Act 1990 (as amended).
2. It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, would not have been liable to enforcement action, under section 172 of the 1990 Act, on that date.
3. This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.
4. The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

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