

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20221009
Location	8 Ferguson Avenue Gravesend Kent DA12 5LX
Proposal:	Application for a Lawful Development Certificate in respect of the proposed construction of a dormer in the rear roof slope, installation of rooflight in the front roof slope and conversion of the roof space to form habitable rooms.
Applicant:	Mr James Hurrell
Site Visit	Desktop Assessment

Plans & Documents

Application Form;
OS Plan (received 29.09.22);
Drawing No. 01A – Block Plan – Existing;
Drawing No. 01 A – Block Plan – Proposed;
Drawing No. 01A – Floor Plans and Elevations – Proposed; and
Drawing No. 01A – Floor Plans and Elevations – Existing.

Property Type

8 Ferguson Avenue is a two storey end of terrace property.

Material Consideration

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Relevant Planning History

Reference	Description	Decision	Decision Date
20110850	Application for minor material amendment to planning permission reference number 20100277 for demolition of existing dwellings and erection of a total of 195 dwellings comprising 127 two storey, two and three bedroom terraced houses, 10 three storey, four and five bedroom houses, 4 two storey, two bedroom houses with wheelchair access; 54 one and two bedroom flats comprising two blocks of three storey and two blocks of four storey flats and laying out of associated car parking spaces and amenity area; to replace blocks A and B with	Permitted	18.11.2011

	eight, three bedroom and two, two bedroom houses, making a total after amendment of 181 dwellings.		
20100277	Demolition of existing dwellings and erection of a total of 195 dwellings comprising 127 two storey, two and three bedroom terraced houses, 10 three storey, four and five bedroom houses, 4 two storey, two bedroom houses with wheelchair access; 54 one and two bedroom flats comprising two blocks of three storey and two blocks of four storey flats and laying out of associated car parking spaces and amenity area.	Permitted	01.12.2010

Officer Assessment

Permitted Developments Rights Restrictions

Article 2 (3) Land (AONB, Conservation Area)	N
Article 4 Direction	N
Permitted Development Rights Removed/Restricted	Y

Application 20100277, 'Demolition of existing dwellings and erection of a total of 195 dwellings comprising 127 two storey, two and three bedroom terraced houses, 10 three storey, four and five bedroom houses, 4 two storey, two bedroom houses with wheelchair access; 54 one and two bedroom flats comprising two blocks of three storey and two blocks of four storey flats and laying out of associated car parking spaces and amenity area' restricts permitted development rights for the property as shown below under condition 4:

- 4 Notwithstanding the provisions of Article 3 of and Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended, no enlargement, improvement or other alterations of the dwellings hereby permitted shall be carried out, including any roof alterations, dormers, porches, or external openings without the prior written permission of the Local Planning Authority having first been obtained

Reason In view of the restricted size of the site and in order to safeguard the privacy and amenity of the occupants of adjoining dwellings

This is replicated in minor material amendment application 20110850, 'Application for minor material amendment to planning permission reference number 20100277 for demolition of existing dwellings and erection of a total of 195 dwellings comprising 127 two storey, two and three bedroom terraced houses, 10 three storey, four and five bedroom houses, 4 two storey, two bedroom houses with wheelchair access; 54 one and two bedroom flats comprising two blocks of three storey and two blocks of four storey flats and laying out of associated car parking spaces and amenity area; to replace blocks A and B with eight, three bedroom and two, two bedroom houses, making a total after amendment of 181 dwellings':

- 4 Notwithstanding the provisions of Article 3 of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995, as amended, no enlargement, improvement or other alterations of the dwellings hereby permitted shall be carried out, including any roof alterations, dormers, porches, or external openings without the prior written permission of the Local Planning Authority having first been obtained

Reason In view of the restricted size of the site and in order to safeguard the privacy and amenity of the occupants of adjoining dwellings

Whilst the above conditions relate to the 1995 GPDO it is clear using Dunnett Investments Limited [2017] EWCA Civ 192 and Trump International Golf Club Scotland Limited v Scottish Ministers [2015] UKSC 74 case law that the above condition is sufficiently clear to exclude the operation of Classes B and C from Article 3 of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (as

Amended) and to prevent any enlargement, improvement or other alterations to the dwelling without the prior written permission of the Local Planning Authority having first been obtained.

Conclusion

The proposed development does not meet the criteria found within the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. This is because permitted development rights have been removed for classes B and C under applications 20110850 and 20100277 which removes the rights to enlarge, improve or otherwise alter the dwelling including an addition or alteration to the roof. As the above condition removes the applicant's right to carry out the said development under permitted development rights, the Lawful Development Certificate is refused and planning permission is required.

Recommendation: <u>Refuse</u> Lawful Development Certificate

Case Officer:	Mrs Lucy Hankin	Team Leader:	Miss Faye Hobbs
Signed:	L Hankin	Signed:	
Dated:	11.10.2022	Dated:	14 October 2022