

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20220975
Location	6 Russell Road Gravesend Kent DA12 2RT
Proposal:	Application for a Lawful Development Certificate in respect of the proposed loft conversion with 3 rooflights in the front roof slope, single storey rear extension and convert to a 6 bedroom HMO.
Applicant:	Mr Toby Ololade
Site Visit	N/A Desktop Assessment

Plans & Documents

Application Form Dated 02/09/2022;
Drawing no 09/07 (Site Location Plan);
Drawing no 062020017 (Block Plan – Proposed); and
Drawing no 06/01 (Elevations and Floor Plans – Existing and Proposed).

Property Type

6 Russell Road is a two-storey terraced dwelling house.

Material Consideration

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

Relevant Planning History

Reference	Description	Decision	Decision Date
20220561	Application for a Lawful Development Certificate in respect of the proposed erection of a rear dormer and installation of roof light windows to front roof slope.	Certificate Granted	09.06.2022
20220057	Single storey rear extension with depth of 6.00 metres, maximum height of 3.00 metres and eaves height of 3.00metres.	Prior Approval not Required	25.02.2022
20211492	Single storey rear extension with a depth of 6.0 metres, maximum height of 3.0 metres and eaves height of 3.0 metres.	Prior Approval Required and Refused	31.12.2021

20211240	Application for Lawful Development Certificate for proposed single storey rear extension.	Certificate Granted	30.11.2021
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Procedural Note

The application proposes the conversion of a three-bedroom single use dwelling house to a six bedroom HMO, incorporating a single storey rear extension (prior approval granted under application 20220057) to be used as a shared kitchen area and roof conversion to serve as bedroom six.

Permitted Development Rights for HMOs

Advice produced by the Planning Inspectorate in 2014 confirmed that houses in multiple occupation, including those which fall within Class C4, can benefit from the permitted development rights granted to dwellinghouses by the General Permitted Development Order (GPDO). The test for whether a property is eligible to use the permitted development right is whether it can be considered a "dwellinghouse" within the context of the GPDO. This will depend on the facts of the case.

In an appeal against Ashford Borough Council (Ref. APP/E2205/D/16/314764), the Inspector was unequivocal in stating that HMOs, including those which fall within Class C4, can benefit from permitted development rights granted to dwellinghouses by the GPDO. The test for whether a property is eligible to use the permitted development right is whether it can be considered a dwellinghouse within the context of the GPDO. On this matter, case law has established that the distinctive characteristic of a dwellinghouse is its ability to afford to those who use the facilities required for a day-to-day private domestic existence.

Having found that the property afforded the people who used the facilities required for a day-to-day private domestic existence, the inspector concluded that it would benefit from the permitted development rights granted to dwellinghouses by the GPDO.

In this case, the proposed floor plans show 6 separate bedrooms, 5 with en-suites, with the kitchen/diner, lounge and bathroom as shared facilities. Therefore, 6 Russell Road would function as a private domestic dwellinghouse, and not as separate self-contained units. As such would benefit from permitted development rights.

Officer Assessment

Permitted Developments Rights Restrictions

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

Class A - The enlargement, improvement or other alteration of a dwellinghouse

A.1	Development is not permitted by Class A if –	Y/N
(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)	N
(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	N

	50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)	
(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	N
(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	N
(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	N N
(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	Y 6m As approved under prior approval 20220057 N 3m
(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;	Y 6m N 3m
(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 that dwellinghouse;	N/A N/A
(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	N 3m
(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,	N/A
	(ii) have more than a single storey, or	N/A
	(iii) have a width greater than half the width of the original dwelling; or	N/A
(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) to (j);	N
(k)	it would consist of or include –	
	(i) the construction or provision of a verandah, balcony or raised platform,	N
	(ii) the installation, alteration or replacement of a microwave antenna,	N
	(iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or	N
	(iv) an alteration to any part of the roof of the dwellinghouse	N
(l)	the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)	N
A.2	In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if –	Y/N
(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;	N/A
(b)	the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or	N/A
(c)	the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.	N/A
(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).	N/A
A.3	Development is permitted by Class A subject to the following conditions –	Y/N
(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;	Y
(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	N/A

	(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	N/A
(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.	N/A

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

B.1	Development is not permitted by Class B if –	Y/N
(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);	N
(b)	Any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;	N
(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;	N
(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;	N 19.20m ³
(e)	It would consist of or include – the construction or provision of a verandah, balcony or raised platform or the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or	N N
(f)	The dwellinghouse is on article 2 (3) land	N
B.2	Development is permitted by Class B subject to the following conditions –	Y/N
(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;	Y
(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	Y N 0.27m

	(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 (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 dwelling house; and	N
(c)	Any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be –	
	(i) obscure-glazed, and	N/A
	(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.	N/A

Class C - Any other alteration to the roof of a dwellinghouse.

C.1	Development is not permitted by Class C if -	Y/N
(a)	permission to use the dwelling 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);	N
(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;	N
(c)	it would result in the highest part of the alteration being higher than the highest part of the original roof;	N
(d)	it would consist of or include –	
	(i) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or	N
	(ii) the installation, alteration or replacement of solar photovoltaics or solar thermal equipment.	N
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	N/A
	(b)	
	(c) 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.	N/A

Conclusion

The proposed development complies with Schedule 2, Part 1, Classes A, B and C and Schedule 2, Part 3, Class L of **THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015, AS AMENDED**, and the **LAWFUL DEVELOPMENT CERTIFICATE** is GRANTED.

Recommendation: Grant Lawful Development Certificate

Case Officer:	Mrs Nina Goodbody	Team Leader:	Richard Hart
Signed:	<i>N Goodbody</i>	Signed:	<i>R Hart</i>
Dated:	24 th October 2022	Dated:	24th October 2022