

5th December 2022

The Planning Department
Ribble Valley Borough Council
Council Offices
Church Walk
Clitheroe
BB7 2RA



Our ref: LJJ197
Your ref: -

By email only

Dear Sir/Madam,

**CERTIFICATE OF LAWFULNESS (S192) – PROPOSED DEVELOPMENT
DEMESNE HOUSE, SETTLE ROAD, NEWSHOLME**

I am writing with regard to an application, made under the provisions of Section 192 of the Town & Country Planning Act (1990) on behalf of Mr D Orrell, regarding proposed development at Demesne House, Newsholme.

The purpose of this Statement is to demonstrate compliance with the relevant provisions of the Town and Country Planning (General Permitted Development) Order 2015 ('GPDO'), insofar as it relates to the proposed alterations detailed within the attached submission, and to confirm that a Lawful Development Certificate ('LDC') should be granted.

Introduction

The application site comprises a detached residential dwelling, located amongst other linear development along this section of Settle Road in Newsholme.

The site has a limited planning history, however two recent submissions have been made and subsequently refused. A brief summary of those decisions is included below.

<i>Application no.</i>	<i>Description</i>	<i>Decision</i>
3/2022/0556	Proposed demolition of existing detached outbuildings and erect a new single storey family annexe building.	Refused
3/2022/0635	Proposed alterations and extensions to include single storey rear extension, two storey porch extension to the front and roof space to be converted for a bedroom with balcony at rear.	Refused

Whilst these decisions are noted, they have no relevance to the consideration or determination of an LDC application, as explained below.



Procedural requirements and scope of a Certificate of Lawfulness

Planning Practice Guidance (PPG) confirms that that two types of Lawful Development Certificate can be sought. In this instance the following is applicable:

- a proposed use of buildings or other land, or some operations proposed to be carried out in, on, over or under land, would be lawful for planning purposes under section 192 of the Town and Country Planning Act 1990¹

Article 39 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 specifies the contents of an application and how it must be submitted. The application is made in accordance with those provisions.

Planning Practice Guidance further advises:

“A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

In determining an application for a prospective development under Paragraph: 009 Reference ID: 17c-009-20140306 a local planning authority needs to ask “if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes?”

A local planning authority may choose to issue a lawful development certificate for a different description from that applied for, as an alternative to refusing a certificate altogether. It is, however, advisable to seek the applicant’s agreement to any amendment before issuing the certificate. A refusal is not necessarily conclusive that something is not lawful, it may mean that to date insufficient evidence has been presented”²

Accordingly, the planning merits of the case cannot be considered as they would in the assessment of a typical application for planning permission. The previous, recent decision at the site is therefore immaterial in assessing this submission. The LPA must simply determine whether the proposed operations would be lawful, with due consideration to the relevant guidance and legislation.

In this instance the Applicant seeks to demonstrate that the proposed extensions fall wholly within the allowances set out in Schedule 2, Part 1 of the GPDO and are therefore lawful.

The Applicant’s case

The case made on behalf of the Applicant is set out in this Statement and shown in the attached package of drawings prepared by David Liversidge. For ease of reference the relevant sections of the GPDO are repeated below, with commentary beneath each criterion (underlined for emphasis) to demonstrate compliance.

¹ Paragraph: 001 Reference ID: 17c-001-20140306

² Paragraph: 009 Reference ID: 17c-009-20140306



The following should also be noted:

- The property is not Listed
- The property is not within a Conservation Area
- The property is not within the Forest of Bowland AONB
- The property does not lie within any other land defined by Article 2(3)

Single storey rear extension

As a single storey rear extension, the development stands to be considered against the provisions of Schedule 2, Part 1, Class A of the GPDO, which allows for the “*enlargement, improvement or other alteration of a dwellinghouse*”, subject to the following:

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

N/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);

N/A – significantly more than 50% of the curtilage remains undeveloped.

(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/A – the single storey extension would stand only 2.7m in height, well below the height of the host property.

(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/A – the eaves of the extension is well below that of the host dwelling.

(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/A – the extension projects from the rear wall of the property.

(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; -



N/A – the extension projects 3.6m from the original rear wall of this detached dwelling and stands only 2.7m in height.

(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 – 'larger home' extension not sought.

(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 opposite the rear wall of the dwellinghouse;

N/A – only a single storey extension is proposed.

(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/A – the extension is more than 2m from the site boundary and does not exceed 3m eaves height in any event.

(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; or

N/A – rear extension proposed.

(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

N/A – no such development proposed or required.

A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if...

N/A – the property is not on Article 2(3) land and therefore the subsequent provisions in A.2 do not apply.



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

The extension would be rendered and finished to match the host dwelling.

(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

N/A – no such windows proposed.

(c) where the enlarged part of the dwellinghouse has more than a single storey, 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 – only a single storey extension is proposed.

In light of the above, the erection of a single storey rear extension is lawful and wholly compliant with the relevant provisions of the GPDO.

Proposed rear dormer

As an alteration to the roof, the development stands to be considered against the provisions of Schedule 2, Part 1, Class B of the GPDO, which allows for the “*additions etc to the roof of a dwellinghouse*” subject to the following:

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);

N/A.

(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/A – the proposed dormer window sits well below the highest part 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;

N/A – the dormer window is proposed to the rear.



(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/A – the created volume is significantly below the 50 cubic metre threshold for this detached property (see drawings for further information).

(e) it would consist of or include—

- (i) the construction or provision of a verandah, balcony or raised platform, or
- (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or

N/A – no such development proposed or required.

(f) the dwellinghouse is on article 2(3) land.

N/A.

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;

Technical Guidance states that this condition is intended to ensure that any addition or alteration to a roof for a loft conversion results in an appearance that minimises visual impact and is sympathetic to the existing house. This means that the materials used should be of similar visual appearance to those in the existing house, but does not mean that they need to be the same materials or match exactly.

The proposed palette of materials are indicated on the attached drawing package and ensure that visual impact is minimised. Therefore, this condition is satisfied.

(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
- (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

N/A – the existing eaves are maintained, the 0.2m requirement is satisfied and the development does not extend beyond the outside rear wall of the existing dwelling.



(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.

N/A – no such windows 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.

N/A – no other enlargements to consider.

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.

N/A

In light of the above, the erection of a dormer window to the rear roof slope is lawful and wholly compliant with the relevant provisions of the GPDO.

Summary & conclusion

It has been demonstrated by way of the information above and the attached drawing package that the proposed alterations to Demesne House fall squarely within the allowances as set out in Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

The proposed development is therefore lawful and a certificate should be granted to confirm this.

Yours sincerely

Lee Greenwood
LJG Planning Consultancy Ltd

