

**Application for a proposed certificate of lawful development – 24 Old Crossing Road Margate  
CD/TH/20/0563**

**Planning Committee – 1st July 2020**

Report Author **Duncan Fitt, Planning Officer**

Planning Reference: CD/TH/20/0563

Site Address: 24 Old Crossing Road, Margate

Applicant: Mr and Mrs Fibbens

Status **For Decision**

Classification: Unrestricted

Ward: **Westbrook**

**Executive Summary:**

This report concerns an application for a proposed certificate of lawful development.

The application is reported to members as the applicant is a member of staff.

The proposed development involves the alteration of the roof from hipped to gabled together with the erection of a flat roof rear dormer, 2No. rooflights to the front elevation and 1No. window to the second floor side elevation.

The purpose of this type of application is to establish if any proposed development would be lawful in this instance if it complies with permitted development as set out within the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended).

**Recommendation:**

Members approve the application for a proposed certificate of lawful development under reference CD/TH/20/0563 as the proposed works fall within Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and are permitted development as a result.

**CORPORATE IMPLICATIONS**

<b>Financial and Value for Money</b>	No implications.
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<p><b>Legal</b></p>	<p>The Planning Committee is not bound to follow the advice of Officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision.</p> <p>The reasons for any decision must be formally recorded in the minutes and a copy placed on file.</p> <p>If Members decide not to accept the advice of Officers it should be mindful of the potential for legal challenge and associated cost implications.</p>
<p><b>Corporate</b></p>	<p>No implications</p>
<p><b>Equalities Act 2010 &amp; Public Sector Equality Duty</b></p>	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy &amp; maternity. Only aim (i) of the Duty applies to Marriage &amp; civil partnership.</p> <p>In the opinion of the author of this report the Public Sector equality duty is not engaged or affected by this decision.</p>

## 1.0 Background

- 1.1 The site comprises a two storey semi detached dwelling located towards the northern end of Old Crossing Road and close to the junction with Meadow Road.
- 1.2 The application for a proposed certificate of lawful development is reported to the Planning Committee as the applicant is a member of staff.

## 2.0 Outline of Process

- 2.1 Applications for proposed certificates of lawful development were introduced in 1991 as part of the Planning and Compensation Act 1991. The purpose of this type of application is to establish if any proposed use of buildings or other land or any operations proposed to be carried out in, on, over or under land, would be lawful. A use or operation can be lawful if it does not constitute development, or it complies with the permitted developments set out within the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended).
- 2.2 The certificate is not a planning permission. The planning merits of the use, operation or activity in the application are not relevant. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or

other land and the interpretation of any relevant planning law of judicial authority. The responsibility is on the applicant to provide evidence to support the application.

- 2.3 The decision for the Council is whether the proposed development complies with all parts of the The Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended). If the proposed development is not considered to be lawful then a planning application would need to be submitted for the proposed works.
- 2.4 As the application is not an application for planning permission, there is no requirement for public consultation under the lawful development certificate procedure.

### **3.0 Analysis**

- 3.1 The applicant has submitted elevations, floor and section plans showing the proposed development.
- 3.2 The proposed certificate of lawful development is for alteration of the roof from hipped to gabled together with the erection of a rear dormer, 2No. rooflights to the front elevation and 1No. window to the second floor side elevation.
- 3.3 The property in question appears to have been used as a single dwelling house, there being no planning history or other reason to believe that the site has been used for other uses. It is a semi-detached property and permitted development rights have not been removed. It is necessary to consider whether the proposed works fall within Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and are permitted as a result.
- 3.4 The property in question is not located within a Conservation Area, nor is the property a Listed Building.
- 3.5 Class B relates to the enlargement of a dwelling house consisting of an addition or alteration to its roof.
- 3.6 The proposed dormer does not exceed the height of the highest part of the existing roof and does not extend beyond the plane of any existing roofslope which forms the principle elevation of the property and fronts a highway, in line with paragraph B1 (b) and (c).
- 3.7 The alteration of the roof from hipped to gabled increases the cubic content of the roof by 21.75m<sup>3</sup> and the proposed rear dormer increases the cubic content of the roof by 10.35m<sup>3</sup>. This is a total increase of 32.09m<sup>3</sup> and therefore the increase in volume complies with paragraph B1(d), which outlines that the resulting roof space cannot exceed the cubic content of the original roof space by more than 50 cubic metres for a semi detached property.

- 3.8 The development does not consist of or include the provision of a verandah, balcony or raised platform or the installation, alteration or replacement of a chimney, flue, or soil and vent pipe and therefore complies with paragraph B1(e).
- 3.9 The dormer and roof extension would be constructed from tiles to match the existing dwelling and would therefore comply with the conditions under paragraph B2(a).
- 3.10 The eaves of the original roof appear to be maintained or reinstated, the edge of the dormer is set back from the eaves by at least 0.2m and no development extends beyond the outside face of any external wall of the original dwellinghouse in line with paragraph B2(b). The proposed second floor side window would be obscure glazed and fixed shut to a height of 1.7m above the internal floor in accordance with paragraph B2(c).
- 3.11 Class C relates to any other alteration to the roof of a dwelling house.
- 3.12 Two rooflights are proposed in the front elevation. The rooflights will not protrude more than 0.15m beyond the plane of the slope of the original roof and will not result in the highest part of the alteration being higher than the highest point of the roof complying with parts C1 (b) and (d).
- 3.13 The rooflights are therefore permitted under Class C of schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015.

#### **4.0 Conclusion**

- 4.1 Therefore it is the officer's view that a Certificate of Lawful development is issued on the following ground:

*The proposed development involving the alteration of the roof from hipped to gabled, together with the erection of a rear dormer, 2No. rooflights to the front elevation and 1No. window to the second floor side elevation comprises works that are permitted under the Town and Country Planning (General Permitted development)(England) Order 2015.*

#### **5.0 Options**

- 5.1 Members approve the application for a proposed certificate of lawful development under reference CD/TH/20/0563 as the proposed works fall within Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and are permitted development as a result.
- 5.2 Members propose an alternative motion.

#### **6.0 Recommendations**

6.1 Officers recommend that members of the Planning Committee agree option 5.1 for the reasons set out in this report.

Contact Officer:	Duncan Fitt, Planning Officer
Reporting to:	Iain Livingstone, Planning Applications Manager

### **Background Papers**

Annex 1	Town and Country Planning (General Permitted Development) (England) Order 2015  <a href="http://www.legislation.gov.uk/ukxi/2015/596/pdfs/ukxi_20150596_en.pdf">http://www.legislation.gov.uk/ukxi/2015/596/pdfs/ukxi_20150596_en.pdf</a>
Annex 2	Planning Practice Guidance <a href="https://www.gov.uk/guidance/lawful-development-certificates">https://www.gov.uk/guidance/lawful-development-certificates</a>