Expiry Date - 27/03/2024

Development Control – Delegated Officer Report

Application Number: AWDM/0120/24 Recommendation – APPROVE

Site: 1 Heene Place Worthing West Sussex BN11 3NL

Proposal: Application for Certificate of Lawfulness for proposed garage door replacement with a window, creating a new door opening to a private rear courtyard

Site visit: N

Proposal, Site and Surroundings

The application relates to an end-of-terrace two-storey cottage located to the west side of Heene Place. The property forms the southerly-most part of the terrace-row which spans the entire section to this side of Heene Place. The property lies within Marine Parade and Hinterland Conservation Area and the terraced-row is described within the Council's Conservation Appraisal document as '*modest cottages converted from the Mews to Heene Terrace. These buildings have considerable local historic and architectural interest.'*

The proposal seeks confirmation, within an application for Lawful Development Certificate for a proposed use or development, that the proposed replacement of the garage door with a window and the creation of a new door opening to a private rear courtyard is permitted development as defined within the Town and County Planning (General Permitted Development) (England) Order 2015.

Relevant Planning History:

Planning permission granted at the application property for:

- Alterations to improve existing 1st floor flat including erection of bathroom extension above existing store building at rear under WB/0799/72, decision issued 15.08.1972.
- Change of use of ground floor garage/workshop into residential use incorporating first floor flat to create a single dwellinghouse with alterations to implement the use (retrospective) under 00/00825/FULL, decision issued 25.09.2000.
- Single storey rear extension with dome rooflight and replacement of garage door to create second front door and windows and installation of two sash windows in flank wall under AWDM/1131/12, decision issued 10.04.2013. This permission does not appear to have been implemented as the garage door remains in-situ.

Planning Assessment

Principle

The proposal will be viewed against the criteria of permitted development, as laid out within The Town and Country Planning (General Permitted Development) (England) Order 2015.

No Article 4 Direction is in place for Marine Parade and Hinterland Conservation Area.

Consideration

Schedule 2, Part 1, Development within the curtilage of a dwellinghouse Permitted Development

Class A – Enlargement, improvement or other alteration of a dwellinghouse

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, PA or Q of Part 3 of the Schedule (changes of use);

Analysis: The change of use of the garage into a residential use associated with the dwelling has been granted following the submission of a full planning application (under 00/00825/FULL). Thus, the dwelling house has not been created through change of use by virtue of Part 3. Permitted development rights were not removed.

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);

Analysis: The application does not propose any increase in the footprint of the property.

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;

Analysis: The application does not propose any increase in the scale of the 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;

Analysis: As per the analysis for (c).

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;

Analysis: The proposed front window will be inserted into the existing opening in a recessed position.

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 4m in the case of a detached dwellinghouse, or 3m in the case of any other dwellinghouse, or
ii) exceed 4m in height;

Analysis: As per the analysis for (c).

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 m in the case of a detached dwellinghouse, or 6m in the case of any other dwellinghouse, or
ii) exceed 4m in height;

Analysis: As per the analysis for (c).

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 3m, or
ii) be within 7 m of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse;

Analysis: As per the analysis for (c).

i) the enlarged part of the dwellinghouse would be within 2m of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3m;

Analysis: As per the analysis for (c).

j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would-
i) exceed 4m in height;
ii) have more than a single storey; or
iii) have a width greater than half the width of the original dwellinghouse; or
(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).

Analysis: As per the analysis for (c).

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.

Analysis: None of the above apply.

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

Analysis: The dwelling house has not been created by virtue of Part 20.

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

a) it would consist of cladding of any part of the exterior of the dwelling house with stone, artificial stone, pebble dash, render, plastic or tiles.
b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse;
c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwelling house.
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).

Analysis: The dwelling house is within the Marine Parade and Hinterland Conservation Area but (a)-(d) do not apply.

A.3 Development is permitted subject to:-

a) materials must be of a similar appearance to those used in the construction of the exterior of the existing dwelling;
b) any upper-floor windows located in a wall or roof slope forming a side elevation must be:-
    i) obscured-glazed, and
    ii) non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed.
c) Where the enlarged part of the dwelling house has more than one storey or forms an upper storey on an existing enlargement of the original dwelling house the roof pitch of the enlarged part must so far as practicable be the same as the roof pitch of the original dwellinghouse.

Analysis: The key consideration is whether the proposed change of the garage door to a window and the insertion of a new opening to the rear constitutes a material ‘of a similar appearance’ as laid out in criteria A.3 (a).

The onus is on how the Council interprets the legislation having regard to the context of the building.

The Government's Technical Guidance 'Permitted Development Rights for Householders' (last updated 2019) states that Condition A.3 *'is intended to ensure that any works to enlarge, alter or improve a house result in an appearance that minimises visual impact and is sympathetic to existing development. This means that the materials used should be of a similar visual appearance to those in the existing house, but does not mean they need to be the same materials.*

For example:

…It may be appropriate to replace existing windows with new uPVC double-glazed windows or include them in an extension even if there are no such windows in the existing house. What is important is that they give a similar visual appearance to those in the existing house, for example in terms of their overall shape, and the colour and size of the frames.'

The Council approaches these nature of applications on a case-by-case basis as it recognises there is a degree of judgement in interpreting 'similar visual appearance', notwithstanding the guidance as laid out above, therefore, different Local Planning Authorities will be guided based on how they independently interpret the legislation. In deciding whether works materially affect the external appearance, a measure of judgement is involved, with reference to the Burroughs Day v Bristol CC (1996) case, the courts have established that such judgment will involve consideration of the nature of the building, the nature of the alterations, and the change to the external appearance of the building as a whole, and the changes must be visible from a number of vantage points.

The application is supported by well-detailed drawings and sections of the existing and proposed windows. The dwelling appears to have maintained period features and much of its original fabric. The metal garage door is situated adjacent the front access door of the dwelling fronting Heene Place and they are visually well-related in terms of colour, design, proportion, and positioning in the context of the dwelling. The windows of the dwelling take the form of a mix of white timber framed casements and vertical sliding sashes. The vertical and horizontal mullions adds character to the windows' and dwellings appearance, and this design is reflected to the top lights above the door and garage.

The proposed window would be inserted into the existing opening and would match the height and width of the garage door. The lower part of the opening would be blocked-up and finished in white painted stucco render to match the existing walls of the dwelling. The proposed window would be an 'Ovolo' style timber glazed in white and would replicate the profile of the existing top-lights and windows to the dwelling, including the proportions of the vertical and horizontal mullions. 2No. windows to the top-lights would be openable in a

top-hung style and the window would be recessed into the opening to create a low white painted timber sill. The Council is satisfied that the proposed window warrants a ‘similar visual appearance’ by virtue of its careful design which replicates the timber material, profile, and proportions of the existing windows to the dwelling, also seen at other dwellings within the Conservation Area.

It is understood that the purpose of the door, which would be installed into the building fabric at the rear elevation of the dwelling, is to increase the admittance of natural daylight and for means of access to the rear courtyard from the converted dining room. The design of the door would be a ‘frameless’ slim-line aluminium glazed sliding door with a charcoal finish. Whilst this design is considered to be of a good quality which would in-turn facilitate the creation of the applicant’s desired space, the door would fail to reflect the character and appearance of the existing fenestration to the dwelling. Notwithstanding this, in view that the door would be completely removed from public vantage points owing to its situation to the rear behind tall boundary walls, the resulting visual change is considered to be negligible and would therefore comply with the legislation.

The proposal satisfies criteria A.3 (a) of Schedule 2, Part 1 of the GPDO and the Government’s Technical Guidance.

Recommendation

Issue a Certificate of Lawfulness for Proposed Development, the submission of a planning application for the works will be not required. This is due to the proposed front window being similar in appearance to the existing fenestration of the dwelling and the rear door having a negligible impact on visual amenity. As such, it is considered that the development is permitted by Class A of Part 1 Schedule 2 of the Town and Country Planning (General Permitted development) (England) Order 2015 (As Amended).

Reasons for Recommendation

The proposal constitutes 'development' as defined by Section 55 of the Town and Country Planning Act 1990, but is permitted by Class A of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended).

Case Officer: Jason Albon Date: 25/03/2024

Authorised by: Jo Morin Date: 25.03.2024