Expiry Date - 02/10/2023

Development Control – Delegated Officer Report

Application Number: AWDM/1100/23 Recommendation – APPROVE

Site: 18 Water Lily Way Worthing West Sussex BN13 3GR

Proposal: Application for Lawful Devleopment Certificate for Existing conservatory substantially completed by 27-07-2019.

Proposal, Site and Surroundings

The application relates to a new build three-storey house constructed in accordance with the approval of reserved matters application under AWDM/0721/16 pursuant to outline planning permission WB/11/0275/OUT.

The house is located to the north of Water Lily Way and is an end-of-terrace property in a row of 4 uniform houses. The property comprises facing brick to lower and composite cladding to upper elevations, a grey concrete tiled gable roof with matching tiled pitched roof front dormer and a matching tiled pitched roof porch canopy, along with white UPVC openings and black composite door. The property is set back a short distance from the pathway of Water Lily Way and is uniformly aligned with the properties along this section. The property benefits from a slightly deeper rear garden compared to the others within this terraced row and comprises patio and gravel along with typical garden furniture and a roofed pergola to the rear. Extending from the rear of the house is a conservatory which is the subject of this application. A white UPVC gable ended conservatory with roof glazing has been constructed measuring 2815mm deep, 3915mm wide, and 3136mm high.

The application is for a Lawful Development Certificate for an Existing Use that seeks to establish whether the building works (conservatory) was substantially completed more than 4 years before the date of the application and thus exempt from planning enforcement action.

The application is supported by:

- A Building Regulations certificate of completion dated 08/07/2019 for the installation of new patio doors (to replace the existing single rear access door) in preparation for the installation of the conservatory (ref: AWBC/0928/19).
- The order details from the conservatory supplier (Conservatory Case Company Ltd) which includes a floor plan, elevations, and 3D view of the conservatory.
- A payment receipt and tax invoice from the Conservatory Case Company Ltd dated 21/06/2019 showing the full amount paid.
- Plans showing the property as originally built implemented under permission AWDM/0721/16 (floors and elevations).

- Plans showing the property post-conservatory build (block, floors and elevations).
- A JPEG image dated 25/07/2019 showing the footprint to the conservatory excavated and the rear patio doors inserted.
- JPEG images dated 03/08/2019 showing the conservatory substantially completed.

Relevant site history

Recent history in connection to the housing estate to which the application property belongs relating to application for approval of Reserved Matters (AWDM/0721/16) pursuant to outline planning permission WB/11/0275/OUT which restricts permitted development rights under Condition 2 of the permission (non-exhaustive):

Notwithstanding the provisions of Schedule 2 Part 1, Classes A, B, F and H and Part 2, Classes A, B and C of the Town and Country Planning General Permitted Development Order 2015 as amended (or any Order revoking and re-enacting that Order with or without modification), no dwelling shall:
(i) be extended or enlarged.

Consultations: None.

Representations: None.

Planning Assessment

Section 191 of the Town and Country Planning Act 1990 allows for a Certificate of Lawfulness for an Existing Use or Development to be issued where no enforcement action may be taken in respect of unauthorised development because the time for enforcement action has expired. Furthermore, the Act stipulates that if '*the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application'.*

The relevant consideration is a matter of fact and degree whether the evidence submitted in support of the application demonstrates on the balance of probability that the conservatory had been substantially completed 4 years before the date of this application (04 August 2023). The application states that the conservatory was 'substantially completed' by 27 July 2019 and therefore the 4-year time limit for taking planning enforcement action for building works as set out under section 171B(1) of the Act has been exceeded.

The submitted information as a collective is considered to satisfactorily demonstrate that the conservatory was substantially completed before 04 August 2023; the evidence sourced from previous receipts, order documents,

and photographs supports this reasoning. The timeline of events according to the dates of the presented evidence creates a logical pattern insofar that it is beyond reasonable doubt that the conservatory was substantially completed before 04/08/2019.

There has been no evidence or contradictory account that would make the applicant's version of events less than probable. Thus, in the absence of any evidence to the contrary, this application must be decided on the basis of the evidence above.

Conclusion

On the basis of the evidence presented the Local Planning Authority is satisfied that on the balance of probability the development had been completed 4 years before the date of this application and as such has achieved immunity from enforcement and is lawful in planning terms.

Recommendation - ISSUE CERTIFICATE

Is recommendation contrary to letter(s) of representation? N

Case Officer: Jason Albon Date: 29.09.2023

Authorised by: Jo Morin Date: 03.10.2023