

# Officer's Report

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|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application Number</b> | <b>HGY/2023/0873</b>                                                                                                                                                                              |
| <b>Type</b>               | <b>Lawful development: Proposed use</b>                                                                                                                                                           |
| <b>Location</b>           | 58 Vallance Road, Hornsey, London, N22 7UB                                                                                                                                                        |
| <b>Proposal</b>           | Certificate of lawfulness seeking confirmation that the roof extension and related works to the property approved under planning permission reference HGY/2020/1547, can be lawfully implemented. |
| <b>Case Officer</b>       | Neil McClellan                                                                                                                                                                                    |
| <b>Valid Date</b>         | 28/03/2023                                                                                                                                                                                        |
| <b>Applicant</b>          | Mr & Mrs S Wong                                                                                                                                                                                   |
| <b>Agent</b>              | Mr Chris Sawden                                                                                                                                                                                   |

## **RECOMMENDATION**

### **Approve**

#### **SITE DESCRIPTION**

The subject site is a semi-detached house located within the Vallance Road conservation area. It is not listed or within the curtilage of a listed building.

#### **DETAILS OF PROPOSAL**

Certificate of lawfulness seeking confirmation that the roof extension and related works to the property approved under planning permission reference HGY/2020/1547, can be lawfully implemented.

#### **RELEVANT PLANNING AND ENFORCEMENT HISTORY**

HGY/2020/1547 - Planning permission granted for the conversion of roof from hip to gable, rear dormer window (reduced from unauthorised size) and re-reinstatement of chimney (part retrospective). Decided 03/09/2020.

PRE/2019/0070 - Pre-application advice sought regarding finding a compromise solution to the unauthorised roof extension at the property that had led to the issuing of an enforcement notice (see below).

HGY/2017/2618 – Planning permission granted for the erection of a single storey rear extension. Decided 17.10.2017.

UNW/2018/0037 - Enforcement notice served with regard to the unauthorised erection of a rear dormer extension. Appeal Ref: APP/Y5420/C/21/3288885 – Dismissed 09 Feb 2023.

#### **RELEVANT PLANNING LEGISLATION**

The application has been made under section 192 of the Town and Country Planning Act 1990 and relevant amendments. This not a planning application but instead the applicant seeks confirmation that the proposed development is lawful. As such, the impact of the proposed development of the neighbour's amenities or the character of the area cannot be taken into consideration for this submission.

## Background

This application has come about as a result of the site's rather complicated planning history (see above).

As a result of the misinterpretation of an email from a Haringey planning officer in March 2017 regarding permitted development rights, the applicant's agent at that time wrongly advised their client that a hip to gable and rear dormer extension could be built under permitted development rights. As the property is within a conservation area permitted development rights for this form of roof extension are not applicable. The applicant proceeded to build out the roof extension and as result was in breach of planning controls.

An enforcement notice was served and an appeal against the notice dismissed in 2023. In between the serving of the enforcement notice and the appeal decision the Council began negotiations with the applicant to try and find a compromise solution. Pre-application advice was issued advising the Council would support the retention of the hip to gable extension provided the rear dormer was significantly and the former chimney on the front roofslope reinstated.

Following this advice, a planning application was submitted and approved by the local planning authority on 3rd September 2020 for a hip to gable extension, rear dormer extension (reduced from the unauthorised size) and re-reinstatement of the chimney (part retrospective).

Given the complicated history of the site the applicants are understandably cautious of not breaching planning controls again and so are seeking confirmation through this current application for a certificate of lawfulness that the above permission remains extant and can be lawfully implemented.

## Analysis

In granting permission HGY/2020/1547 (see above), the Authority imposed a shorter commencement time of six months from the date of granting the permission than the standard three years, as it is entitled to do so under subsection (1)(b) of section 91 of the 1990 Planning Act where the authority consider it appropriate having regard to the provisions of the development plan and to any other material considerations. This meant that work on the approved development had to commence by March 3rd, 2021.

In order to lawfully 'commence' development it is necessary to satisfy the legal requirements in section 56(4) of the Town and Country Planning Act 1990. This says that "development is taken to be begun on the earliest date on which a material operation is carried out". A material operation can include any works of construction, demolition, digging foundations, laying out or constructing a road and a material change in the use of the land.

In practice, very minor works are usually sufficient to commence development. The works done must reflect what was permitted by the planning permission, which would include complying with any pre-commencement planning conditions relevant to the works being undertaken. Otherwise, any works done to implement in accordance with section 56(4) may not be lawful and may then be subject to challenge by the local authority. There were no pre-commencement conditions attached to permission reference HGY/2020/1547.

In this particular instance, the Authority is satisfied that the approved development was commenced within the required time limit. This is confirmed by the Authority in its statement submitted in respect of the above-mentioned planning enforcement appeal:

Paragraph 6.13 "whilst the permission was implemented in part with regards to the re-instatement of a chimney and retention of the gable, it has not been fully implemented with regards to the rear dormer. It is open to the appellant to implement the remainder of the permission."

#### Summary and Conclusion

Given the above considerations, the Authority is satisfied that the planning permission granted under planning permission reference HGY/2020//1547 has been lawfully commenced, and although the approved development has not been completed, the permission remains extant.

#### **RECOMMENDATION**

Grant Certificate.

In pursuance of their powers under the above Acts the London Borough of Haringey as Local Planning Authority hereby CERTIFY the above proposal described by the applicant to be LAWFUL.