

**WELWYN HATFIELD BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT
DELEGATED REPORT**

APPLICATION No: 6/2015/1979/LAWE

SITE ADDRESS: Essendon Lodge, School Lane, Essendon, Hatfield, AL9 6HD

DESCRIPTION OF DEVELOPMENT: Certificate of lawfulness for the existing conversion of loft and installation of velux window

RECOMMENDATION: APPROVE

1. SITE AND APPLICATION DESCRIPTION:

The application property is a single storey unit with loft conversion, constructed of facing red brickwork under a pitched roof.

2. SITE DESIGNATION:

The site lies within Essendon, within the Metropolitan Green Belt and an area TPO (TPO3 04), as designated in the Welwyn Hatfield District Plan 2005.

3. RELEVANT PLANNING HISTORY:

None.

4. CONSULTATIONS:

None.

5. NEIGHBOUR REPRESENTATIONS:

None.

6. TOWN/PARISH COUNCIL REPRESENTATIONS

None received.

7. DISCUSSION:

The relevant period for immunity from enforcement.

With regards to Section 171B of the Town and country Planning Act, development of this nature becomes immune from enforcement if no action is taken within four years of substantial completion for a breach of planning control consisting of operational development.

The key consideration for this application is whether the applicant has proved, on the balance of probabilities, that the existing conversion of the loft and installation of velux window has been in existence for a period of at least four years and has,

therefore, become lawful under the terms of Section 171B of the Town and Country Planning Act 1990 (as amended).

Evidence submitted with application S6/2015/0138/LUE

The applicant has submitted a statutory declaration that states that the works relating to the bathroom conversion and the associated velux window at Essendon Lodge were completed in 2008 and have remained unchanged since that date. Furthermore, the applicant has submitted a statement which confirms that the development referred to within the statutory declaration is in conjunction with the single roof light as demonstrated in photographs taken on 18/11/2015.

Appraisal of the evidence of use

The onus of proof in a lawful development certificate application is firmly on the applicant and the Courts have held that the relevant test of the evidence on such matters is "the balance of probability". Moreover, the Court has held (see *F.W. Gabbittas v SSE and Newham LBC* [1985] J.P.L. 630) that the applicant's own evidence does not need to be corroborated by "independent" evidence in order to be accepted. If the Local Planning Authority have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "on the balance of probability".

The Council has no records or has received no comments from neighbours or consultees that contradict the evidence that has been provided to support this certificate of lawfulness application.

Having regard to all of the above, it is considered that, on the balance of probability, the bathroom conversion and associated velux window have been in existence for at least a four year period and have therefore become lawful under the terms of Section 171B of the Town and Country Planning Act 1990 (as amended).

8. CONCLUSION:

The decision is based on the evidence available and the balance of probabilities. The evidence to show that the bathroom conversion and associated velux windows have been in existence for a minimum of four years is considered to be sufficient to meet the test of "on the balance of probability". It is therefore recommended that a Certificate of Lawfulness be APPROVED for this development.

9. RECOMMENDATION: APPROVE

The bathroom conversion and associated velux window (as seen on photographs dated 18/11/2015) can be considered to have been in existence since 18 November 2011 and have therefore become lawful under the terms of Section 171B of the Town and Country Planning Act 1990 (as amended). Therefore the certificate of lawful use should be granted.

First Schedule: Certificate of Lawfulness for the existing bathroom conversion and associated velux windows.

Second Schedule: Essendon Lodge, School Lane, Essendon, Hatfield, AL9 6HD.

Signature of author..... Date.....