

**Reference No:** 5/17/0417**Valid Date:** 14/02/2017**End of Stat Period Date:** 10/04/2017**Case Officer:** Paige Ireland**Report Written Date:** 21/02/2017

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**Applicant:** Mr & Mrs Tate**Proposal:** Certificate of Lawfulness (proposed) - Part single, part two storey rear extension**Site Address:** 1 Ivy Cottages Harpendenbury Redbourn Hertfordshire

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**Ward:** REDBOURN**Parish:** HARPENDEN RURAL**Constraints:**

Ward

Parish

Metropolitan Green Belt

Flood Plain Zone 3

Flood Plain Zone 2

Area of Special Control for Ad

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**BACKGROUND**

**Site / Surroundings:** No. 1 Ivy Cottages is a two storey semi-detached property located to the south east of Kinsbourne Green Lane and Luton Lane. To the rear of the site is the car park for Redbourn Golf Club. The site falls within the Metropolitan Green Belt. The dwelling has an unconventional form being built with an original, subservient two storey side element, resulting in an 'L' shaped form.

**Proposal:**

A Certificate of Lawfulness is submitted in respect of a part single, part two storey rear extension with the two storey element measuring 7.7m in width and 3m in depth

**Relevant History:**

**5/2016/3318** - First floor side extension new front porch with canopy, addition of front and rear facing rooflights and alterations to openings (resubmission following refusal of 5/2016/1268) – Approved

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**REPRESENTATIONS****Publicity:** N/A**Expiry Date:** N/A**Notifications:** N/A**Town / Parish Council:** (if applicable) N/A**Consultations:** N/A

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**DISCUSSION****Main Issues:**

Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 relates to the enlargement, improvement or other alteration of a dwellinghouse.

**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 or Q of Part 3 of this schedule (changes of use)**

The proposal complies with this criterion

**(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);**

The proposal would not result in the ground covered by buildings within the curtilage of the dwellinghouse exceeding 50%. The proposal therefore complies with this criterion.

**(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;**

The proposal would not have a height higher than the highest part of the original dwelling. The proposal therefore complies with this criterion.

**(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;**

The height of the eaves would not exceed the height of the eaves of the original dwelling. The proposal therefore complies with this criterion.

**(e) the enlarged part of the dwellinghouse would extend beyond a wall which—**

**(i) fronts a highway, and**

**(ii) forms either the principal elevation or a side elevation of the original dwellinghouse;**

The proposal would not extend beyond a wall that fronts a highway and forms either a principal or side elevation of the original dwellinghouse. The proposal therefore complies with this criterion.

**(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 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or**

**(ii) exceed 4 metres in height;**

The proposal complies with this criterion .

**(g) until 30th May 2019, 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 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or**

**(ii) exceed 4 metres in height;**

The proposal complies with this criterion.

**(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 3 metres, or**

**(ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse**

The proposed extension is a part single, part two storey extension. Whilst the single storey element will be within 2m of the boundary of the curtilage of the dwellinghouse and will not exceed 3m the proposed however, the development will not extend beyond the rear wall of the original dwellinghouse by more than 3m or be within 7m of any boundary of the curtilage of the

dwellinghouse opposite the rear wall of the dwellinghouse. The proposal complies with this criterion.

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

The enlarged part of the dwellinghouse would be within 2m of the boundary of the curtilage of the dwellinghouse and although the eaves of the single storey element would not exceed 3m in height, the eaves of the two storey element would.

According to the Householders Technical Guidance

*'Where any part of a proposed extension to a house is within 2 metres of the boundary of its curtilage, then the maximum height of the eaves that is allowed for the proposal ... is 3 metres.'*

In this respect the 3m restriction in terms of eaves height within 2m of the boundary would apply to the extension as a whole and therefore the proposal fails to comply with this criterion.

**(j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—**

**(i) exceed 4 metres in height,**

**(ii) have more than a single storey storey, or**

**(iii) have a width greater than half the width of the original dwellinghouse; or**

The proposal would not extend beyond a wall forming the side elevation of the original dwellinghouse. The proposal complies with this criterion.

**(k) it would consist of or include—**

**(i) the construction or provision of a veranda, 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**

The *'Permitted development for householders: Technical Guidance'* (April 2014) defines a raised platform as "any platform with a height greater than 300 millimetres and will include terraces". The development does not propose a veranda, balcony or raised platform, microwave antenna, alteration or replacement of a chimney, flue or soil and vent pipe or an alteration to any part of the roof of the dwellinghouse.

***As the dwelling is not on article 2(3) land, A.2 is not applicable***

**A.3. Development is permitted by Class A subject to the following conditions—**

**(a) the materials used in any exterior work (other than materials used in the construction of a conservatory) shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;**

The submitted plans state that brickwork and tiles will match the existing dwelling. The proposal therefore complies with this criterion.

**(b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse shall be—**

**(i) obscure-glazed, and**

**(ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and**

One upper-floor window is proposed to the wall forming a side elevation of the dwellinghouse, however this is stated to be obscure glazed and non-opening below a height of 1.7m

**(c) where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part shall, so far as practicable, be the same as the roof pitch of the original dwellinghouse.**

The proposal is two storey and the roof pitch of the enlarged part of the dwellinghouse is similar to the roof pitch of the original dwellinghouse. The proposal therefore complies with this criterion.

**Comment on Town / Parish Council / District Councillor / Concern(s):** N/A

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## **CONCLUSION**

### **To include justification for recommendation and relevant development plan policies**

A Certificate of Lawfulness (proposed) can not be issued on the basis that the proposed part single, part two storey rear extension fails to comply with Class A.1 (i) of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as the height of the eaves of the development would exceed 3m within 2m of the curtilage of the dwellinghouse. Formal planning permission is therefore required

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## **HUMAN RIGHTS CONSIDERATIONS**

The following recommendation is made having regard to the above and also to the content of the Human Rights Act 1998

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**RECOMMENDATION:** Refused **Decision Code:** S6

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### **Reasons:**

1. A Certificate of Lawfulness (proposed) can not be issued on the basis that the proposed part single, part two storey rear extension fails to comply with Class A.1 (i) of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as the height of the eaves of the development would exceed 3m within 2m of the curtilage of the dwellinghouse. Formal planning permission is therefore required

### **Informative(s):**

1. This determination was based on the following drawings and information: Site Location Plan, 1/C/01, 1/C/02, 1/C/03 and 1/C/04 received 15 February 2017

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**PLAN NO'S:** Site Location Plan, 1/C/01, 1/C/02, 1/C/03 and 1/C/04 received 15 February 2017

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## **LOCAL GOVERNMENT (Access To Information Act) 1985**

### **Bibliography**

<b><u>Title of Background Documents</u></b>	<b><u>Custodian &amp; Tel. No.</u></b>	<b><u>File Location</u></b>
St. Albans District Local Plan Review 1994 adopted November 1994	01727 866100 ext. 2347	Council Offices Civic Centre St Peters Street St Albans, Herts AL1 3JE

Report Writer Signature

**Paige Ireland**

Date

**21/02/2017**

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**AGENT**

Mr Ashley Bourne  
26 Ashwell Park  
Harpenden  
Hertfordshire  
AL5 5SG

**APPLICANT**

Mr & Mrs Tate  
1 Ivy Cottages  
Harpendenbury  
Hertfordshire  
AL3 7PZ

**DRAFT CERTIFICATE OF LAWFUL USE OR DEVELOPMENT LETTER**

The CITY AND DISTRICT OF ST ALBANS COUNCIL hereby certify that on the 21 February the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged on the plan attached to this certificate **would not have been lawful** within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reasons:-

1. A Certificate of Lawfulness (proposed) can not be issued on the basis that the proposed part single, part two storey rear extension fails to comply with Class A.1 (i) of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as the height of the eaves of the development would exceed 3m within 2m of the curtilage of the dwellinghouse. Formal planning permission is therefore required

**Signed**



**Tracy Harvey**  
**Head of Planning & Building Control**

**First Schedule**

**(Development/Use) - Certificate of Lawfulness (proposed) - Part single, part two storey rear extension**

**Second Schedule**

**(Location) - 1 Ivy Cottages Harpendenbury Redbourn Hertfordshire**

**NOTES (Not necessary for Refusals)**

- 1. This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended)*
- 1. It certifies that the operations specified in the First Schedule taking place on the land described in the Second Schedule would have been lawful, on the specified date and, thus would not have been liable to enforcement action under Section 172 of the 1990 Act on that date.*
- 2. This Certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operations, which is materially different from that described or which relates to other land, may render the owner or occupier liable to enforcement action.*
- 3. The effect of the certificate is also qualified by the proviso in Section 194 (4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.*
- 4. The applicant should be aware that approval under the Building Regulations 2000 may be required. Further information can be obtained from the Council Offices.*

**This determination was based on the following drawings and information: Site Location Plan, 1/C/01, 1/C/02, 1/C/03 and 1/C/04 received 15 February 2017**