

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development**REF NO:** **AW/134/21/CLP****LOCATION:** 79 Lincoln Avenue
Aldwick
PO21 3EW**PROPOSAL:** Lawful development certificate to confirm the proposed use of the outbuilding as an annexe by the family already occupying the main dwellinghouse will not be a material change of use of land as it will remain a single planning unit.**DESCRIPTION OF APPLICATION**

The application seeks confirmation as to whether the use of the existing outbuilding as an annexe is lawful and not a material change of use.

Representations have been received in objection to the application. Due to the type of application it is, we are not able to consider any objections received as it is not a planning application and is only to be determined against the limitations of the national legislation referred to above.

RELEVANT SITE HISTORY**REPRESENTATIONS****Representations Received:****CONSULTATIONS****Consultations Responses Received:****LEGISLATIVE BACKGROUND**

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

In this instance the proposed works will be assessed against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Class E - Buildings etc incidental to the enjoyment of a dwellinghouse

Provided the proposed works satisfy the relevant criteria, and that no restrictive conditions to development have been imposed on the site, the proposed works will constitute Permitted Development and would not require planning permission. If the works fail to accord with the criteria then planning permission will be required for them to take place.

CONCLUSION

The proposal relates to the structure as shown on the plans submitted and should any alterations be made to the structure, this would conflict with the relevant criteria.

A statement has been submitted relating to the development of the outbuilding. The Council dispute some of the details contained within, with regards to when the outbuilding was constructed however this is not relevant to the determination as to the use of the building.

'Uttlesford DC v SoSE and White (1992)', which considered a garage attached to a dwelling that had been converted to a 'granny annexe' is of interest. An inspector had determined that where a domestic garage within a residential curtilage was used for living accommodation in connection with the dwelling, no material change of use had occurred. The court agreed, ruling that the fact that the elderly occupier of the annexe had living facilities that enabled her to live independently from the rest of the family did not amount to the creation of a separate planning unit that required permission.

The annexe, whilst having self contained facilities, is not intended to be used independently and would be physically and functionally linked to the main dwelling and, as a consequence, would be put to a use which is already taking place within the planning unit.

It is acknowledged that additions to the normal basic domestic living accommodation of a dwellinghouse, such as bedrooms, would not be expected to be regarded as being 'incidental to the enjoyment of a dwellinghouse as such' because they were generally an integral part of the ordinary residential use as a dwellinghouse. But in each case it had to remain a matter of fact and degree as to whether that was or was not the case. There was no warrant in the legislation for exclusion of a particular specified type of room or building as a matter of law.

If the annexe is not used in association with the dwelling, as described, and the functional link is severed, then it would not benefit from the CLP.

With no physical development proposed and the use being in conjunction and therefore incidental with the main dwellinghouse, and with no evidence to contradict that this is not the case, the proposal complies with criteria.

CIL is liable on outbuildings which feature self contained facilities. Annexe relief can be applied for should evidence be submitted to prove it have been in in use for 6 months within 3 years. Form 5 should be completed.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on 12th May the use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate, was lawful within the meaning of section 192 of the Town & Country Planning Act 1990 by reason of compliance with Schedule 2, Part 1, Class E of the GDPO.

FIRST SCHEDULE

The use hereby approved shall be carried out in accordance with the following approved plans

- Floor Plan**
- Planning Statement confirming the use and who for.**

SECOND SCHEDULE

79 Lincoln Avenue, Aldwick, West Sussex, PO21 3EW

EXTENT OF USE

Use of the outbuilding as an incidental unit to the main dwellinghouse.

AW/134/21/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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