

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development

REF NO: A/52/21/CLP

LOCATION: 9 Horton Place
Angmering
BN16 4GL

PROPOSAL: Lawful development certificate for the proposed installation of set of bi-fold doors on side of existing garage to be used as garden room.

DESCRIPTION OF APPLICATION

The application seeks to convert a garage into a garden room and install a set of bi-fold doors on the side of existing garage.

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) (Amendment) (No. 2) (England) Order 2015 (as amended).

- Class A, which pertains to the enlargement, improvement, or other alterations to 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 proposed external changes to the garage conversion are considered to fall under Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.

A.1 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);
- (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);
- (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;
- (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;
- (e) the enlarged part of the dwellinghouse would extend beyond a wall which (i) forms the principal elevation of the original dwellinghouse; or
(ii) fronts a highway and forms a side elevation of the original dwellinghouse;
- (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;
- (g) 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;
- (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 being enlarged which is opposite the rear wall of that dwellinghouse.
- (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;

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

(ja) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j);

(k) it would consist of or include

- (i) the construction or provision of a verandah, 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.

A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if

- (a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;
- (b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or
- (c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.
- (d) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (b) and (c).

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) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;
- (b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must 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
- (c) where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.

The property known as 9 Horton Place is a detached property and is not a Listed Building or within a Conservation Area. The proposal would be of materials similar to existing.

Section 55 Meaning of "development" and "new development".

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

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(2) The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land:

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which:

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building,

and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

(b) the carrying out on land within the boundaries of a road by a F2. . . highway authority of any works required for the maintenance or improvement of the road ;

(c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose;

(d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;

(e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class.

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It is considered that the conversion of the garage to residential use is an internal operation where according to section 55 of the Act is not development requiring planning permission.

Restrictive Condition

Examination of the site history shows there are restrictions relating to the works proposed.

Whilst the proposed external changes to the garage conversion comply with relevant sections (a),(b),(c),(d),(e),(i),(j)(i)(ii)(iii), (k) and are considered to be "Permitted Development", the proposal does require the submission of an application for full planning permission because Condition 4 of outline planning permission A/124/95 for the estate stated:

The buildings shall not be occupied until the parking spaces/turning facilities/and garages/s have been provided and constructed in accordance with details to be submitted. The areas of land so provided shall not thereafter be used for any purpose other than the parking/turning/and garaging of vehicles.

Reason: To ensure that adequate and satisfactory provision is made for the accommodation of vehicles clear of the highways.

The proposed conversion of the garage therefore requires the submission of an application for planning permission since permitted development rights have been taken away by the imposition of the above condition.

RECOMMENDATION

REFUSE

The Arun District Council hereby certify that on 22-03-2021 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, is not lawful within the meaning of section 192 of the Town & Country Planning Act 1990 since condition 4 of the outline permission A/124/95 prevents use of garages for any purpose other than parking.

FIRST SCHEDULE

The proposed development is considered to fall under Schedule 2 Part 1 of the GDPO, but permitted development rights are overridden by the wording of condition 4 of planning permission A/124/95.

SECOND SCHEDULE

9 Horton Place, Angmering, West Sussex, BN16 4GL

EXTENT OF USE

Conversion of garage into a garden room and installation of a set of bi-fold doors on the side of existing garage.

A/52/21/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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