

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

REF NO: BE/38/22/CLP

LOCATION: Garage Compound
Burchett Walk
Bersted

PROPOSAL: Lawful development certificate for the proposed construction of garage in-between existing garages to match the existing garages within the compound.

DESCRIPTION OF APPLICATION

This application seeks a Lawful Development Certificate for the proposed construction of garage in-between existing garages to match the existing garages within the compound.

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) (England) Order 2015 (as amended) and S55 of the Town and Country Planning Act - Meaning of 'development' and 'new development'.

Provided the works satisfy the relevant criteria, and that no restrictive conditions to development have been imposed on the site, the 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 application seeks to construct a garage within a designated garage compound site. Being outside the curtilage of a dwellinghouse, the application is assessed against the Town and Country Planning Act 1990 Section 55 as there are no permitted development rights that apply to garage compounds.

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.

(1A) For the purposes of this Act 'building operations' includes:

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.

(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 highway authority of any works required for the maintenance or improvement of the road but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment;
- (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.

the demolition of any description of building specified in a direction given by the Secretary of State to local planning authorities generally or to a particular local planning authority.

The Secretary of State may in a development order specify any circumstances or description of circumstances in which subsection (2) does not apply to operations mentioned in paragraph (a) of that subsection which have the effect of increasing the gross floor space of the building by such amount or percentage amount as is so specified.

Examination of the site history has revealed no restrictions of permitted development within the site.

The garage does not fall under any of the relevant criteria of Section 55 that exclude the proposal from being considered as development, and as such is considered development. In addition, as the garage is not situated within the curtilage of a dwellinghouse, it does not benefit from Permitted Development Rights, and therefore requires the submission of an application for planning permission.

RECOMMENDATION

PP REQUIRED

The Arun District Council hereby certify that on 11/04/22 the development 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 not lawful within the meaning of section 192 of the Town & Country Planning Act 1990 by reason that the works are development as defined by s55 of The Town and Country Planning Act and it is outside the curtilage of a dwellinghouse and does not benefit from permitted development rights granted under Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015 as amended.

FIRST SCHEDULE

The proposed garage does not fall under Section 55 of the Town & Country Planning Act 1990 or Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 2015.

The decision was based on the following plans:

- Floor Plans
- Proposed Elevations
- Location Plan
- Block Plan
- Photo 1

SECOND SCHEDULE

Garage Compound, Burchett Walk, Bersted

EXTENT OF USE

Construction of a garage in-between two garages and matching that of the existing garages within the compound.

BE/38/22/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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