

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development**REF NO:** BN/15/21/CLP**LOCATION:** 58 Downview Road
Barnham
PO22 0EF**PROPOSAL:** Lawful development certificate for the proposed use of existing cabin ancillary to house for private use and short term lets.**DESCRIPTION OF APPLICATION**

The application seeks to establish the lawful use of the garden cabin as a self contained unit ancillary to the house for use by family, extended family and the offer of short term lets.

RELEVANT SITE HISTORY

EG/110/04/	Single storey side extension.	ApproveConditionally 05-01-05
EG/6/98	Conversion of loft space into two bedrooms and bathroom	ApproveConditionally 25-03-98

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 E, which pertains permitted development rights within the curtilage of a house for:
 - (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or
 - (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas

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 use of the garden cabin as a self contained unit are considered to fall under Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015.

E.1 Development is not permitted by Class E:-

- (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) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
- (c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;
- (d) the building would have more than a single storey;
- (e) the height of the building, enclosure or container would exceed -
 - (i) 4 metres in the case of a building with a dual-pitched roof,
 - (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
 - (iii) 3 metres in any other case;
- (f) the height of the eaves of the building would exceed 2.5 metres;
- (g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;
- (h) it would include the construction or provision of a verandah, balcony or raised platform;
- (i) it relates to a dwelling or a microwave antenna; or
- (j) the capacity of the container would exceed 3,500 litres.

E.2 In the case of any land within the curtilage of the dwellinghouse which is within:

- a) an area of outstanding natural beauty;
- (b) the Broads;

- (c) a National Park; or
- (d) a World Heritage Site,

development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

E.3 In the case of any land within the curtilage of the dwellinghouse which is article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.

Interpretation of Class E

E.4. For the purposes of Class E, "purpose incidental to the enjoyment of the dwellinghouse as such" includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

The height of garden cabin, as shown on the submitted documents, is 2.7m within 2 metres (0.85m) of the boundary of the curtilage of the dwellinghouse, as such it would not be permitted by Class E, criterion e),(ii).

Within Class E the essential question is whether the use of the curtilage building has created a separate planning unit. In *Gravesham BC v SoSE and White*, in essence, an annexe will become a single dwellinghouse where it is self-contained with all the necessary living facilities and has resulted in the creation of a separate planning unit.

The garden unit is self contained and has all normal facilities for day-to-day living therefore it is considered that the proposed use fails to be an ancillary to the main house.

For the above reasons the proposed use will fail to accord with the criteria therefore planning permission will be required for the proposed use to take place.

RECOMMENDATION

REFUSE

The Arun District Council hereby certify that on 03-03-2021 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, was not lawful within the meaning of section 192 of the Town & Country Planning Act 1990 since it would not be permitted development by Class E, criterion e) (ii) and would not accord with the interpretation of Class E.

FIRST SCHEDULE

The proposed development is not considered to fall under Schedule 2 Part 1 of the GDPO.

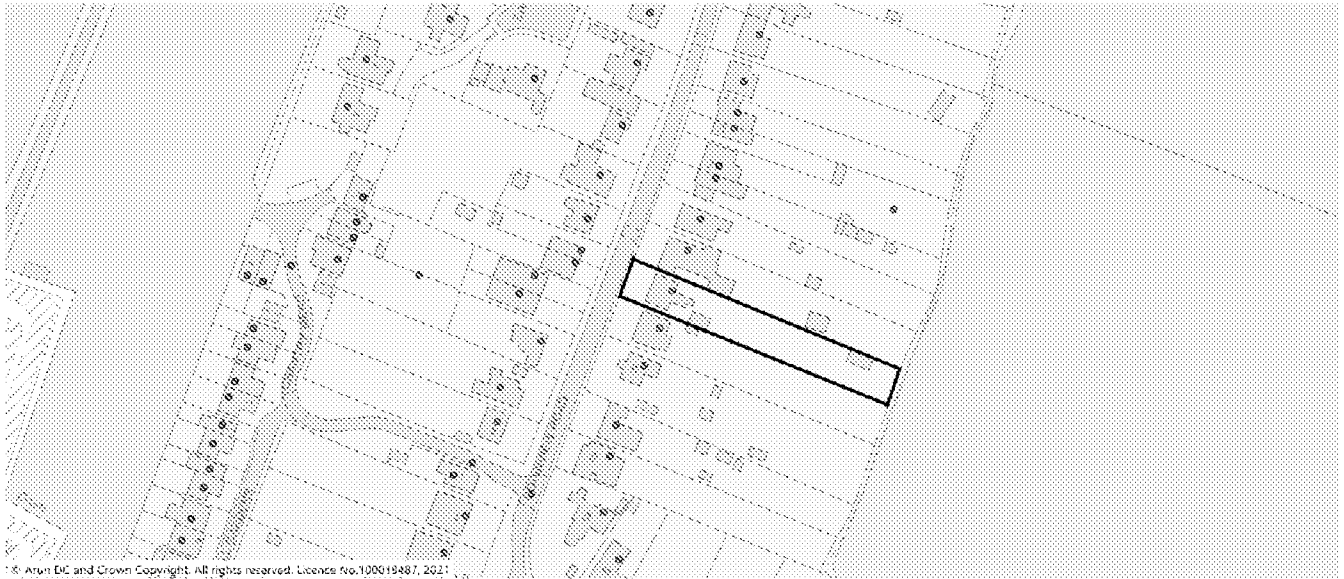
SECOND SCHEDULE

58 Downview Road, Barnham PO22 0EF

EXTENT OF USE

Use of the garden cabin as a self contained unit ancillary to the house for use by family, extended family and the offer of short term lets.

BN/15/21/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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