

The Fallows, Highground Lane, Barnham

Certificate of Lawfulness of Proposed Development – 2no Side Extensions and 1no Rear Extension Following Completion of First Floor Extension Permitted under BN/16/18/HH



Planning Statement

JULY 2017

APPLICANT: MR D YEET

PREPARED BY: STEPHEN JUPP MRTPI, 348 CHICHESTER ROAD, BOGNOR REGIS, PO21 5BX

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1.0 SITE CONTEXT

- 1.1 Meadow View is a detached chalet bungalow style property with smooth cream render and red brick dressing walls with a hipped roof with red tiles and a double garage.
- 1.2 The site is located within an enclave of residential development approximately 1km by road /footpath to the south west of Barnham Village Centre and some 300 metres north west of the Barnham Church Lane Conservation Area.
- 1.3 A certificate of lawfulness for '*Use of land to rear of house as garden*' was granted on 22 April 2014 under reference BN/14/14/CLE.
- 1.4 The First Schedule of the Certificate confirms the nature of the use and states it as "*including garden room, child's play equipment, free standing trampoline and swimming/paddling pool*".
- 1.5 The 'garden room' referred to in the lawful certificate is the building, the subject of this current application.
- 1.6 The property has an existing access located in the south west corner which leads to a large hardstanding area from which an accessway leads along the east boundary to the rear of the plot. This accessway is utilised for the subject building and in the process of being extended under the terms of the most recent permission in order outbuilding to provide 2no parking spaces and a turn on site facility.
- 1.7 The subject building is constructed from breeze block and has cavity walls with insulation. It has a very low profile flat roof.
- 1.8 The building is well screened from the neighbouring properties partly due to its very low profile.
- 1.9 The subject building is now a dwelling in its own right and is known as The Fallows.
- 1.10 Planning permission was allowed on appeal on 20 February 2018 under planning application BN/8/17/PL. The permission has been implemented and the building is now occupied as a dwelling.
- 1.11 A subsequent planning permission – BN/16/18/HH was granted for a first floor extension to the dwelling.
- 1.12 It is proposed that the extensions, the subject of this lawful certificate application, will be constructed following completion of the permitted first floor extension.

2.0 THE PROVISIONS OF SCHEDULE 2, PART 1, CLASS A OF THE 1995 GPDO, AS AMENDED

2.1 Part 1 deals with development within the curtilage of a dwellinghouse and Class A is specific to 'The enlargement, improvement or other alteration of a dwellinghouse.

2.2 Class A provides that development is permitted unless:

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA 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) 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;

(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 subparagraphs (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.*

2.3 In respect of these limitations I would submit the following:

- a) Not relevant
- b) The curtilage of the property is extensive and the proposed works cover a small proportion.
- c) The height of the extensions do not exceed the height of either the existing dwelling or that as it will exist when the permitted first floor extension has been added.
- d) The eaves height of the extensions do not exceed the eaves height of either the existing dwelling or that as it will exist when the permitted first floor extension has been added.
- e) The extensions do not project beyond the principal elevation of the original dwelling, nor does it front a highway.
- f) The single storey rear extension does not exceed 4m in depth.
- g) Not relevant.
- h) Not relevant.
- i) The southern side extension and the rear extension will both

be within 2m of the boundary but the eaves of both extensions does not exceed 3m.

j) Both side extensions are less than 4m in height; are single storey; and do not have a width greater than half the width of the original dwelling.

k) Not applicable.

2.4 Paragraph A.2 is not relevant as the property is not on article 2(3) land.

2.5 Paragraph A.3(a) requires the materials to be used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwelling.

2.6 The walls of the existing dwelling are white painted render [rear and side walls] and horizontal timber boarding. The proposed extensions will match this appearance, with all walls being painted render with the exception of the front face of the two side extensions which will be clad in horizontal timber, to match the existing.

3.0 CONCLUSIONS

3.1 The submitted drawings and detailed analysis set out above demonstrate that once the permitted first floor has been constructed on the existing, lawful, dwelling, the proposed 2no side extensions and 1no rear extension will constitute permitted development by virtue of the provisions of Schedule 2, Part 1, Class A of the 1995 GPDO, as amended.

2.7 The application for a Certificate of Lawfulness of Proposed Development should therefore be issued.

APPENDIX 1

LAWFUL CERTIFICATE FOR USE OF LAND AS GARDEN AND FOR THE GARDEN ROOM



Town & Country Planning Act 1990 (as amended)
Town & Country Planning (Development Management Procedure) (England)
Order 2010 (as amended) - Article 35
Application for Certificate of Lawfulness for an Existing use or Operation
DECISION NOTICE

Application Ref: BN/14/14/CLE

To Addressee

Stephen Jupp MRTPI
 348 Chichester Road
 Bognor Regis
 West Sussex
 PO21 5BX

Site Address

Rear of Meadow View
 Highground Lane

PO22 0BT

Description of Application

Application for a Lawful Development Certificate for the existing use of land to rear of house as garden.

The Arun District Council hereby certify that on the 18th March 2014 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 black on the plan attached to this certificate was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 for the following reason:

The use of land for garden.

EXTENT OF USE

Use of land for garden at land to the rear of Meadow View, Highground Lane, Barnham which is shown on the plan edged boldly in black which is attached to this certificate.

FIRST SCHEDULE

The Use of land for garden purposes including garden room, child's play equipment, free standing trampoline and swimming/paddling pool.

SECOND SCHEDULE

Land to the rear of Meadow View, Highground Lane, Barnham, PO22 OAZ.

IT IS IMPORTANT THAT YOU READ THE NOTES ATTACHED TO THIS DOCUMENT

Head of Planning Services
Arun District Council
The Arun Civic Centre
Maltravers Road
Littlehampton
West Sussex BN17 5LF

Case Officer: Mrs J Chapman

Decision Issued: **22 April 2014**



NOTES RELATING TO CERTIFICATE OF EXISTING LAWFUL USE OR DEVELOPMENT

TOWN & COUNTRY PLANNING ACT 1990

This certificate is issued solely for the purpose of section 191 of the Town & Country Planning Act 1990 (as amended).

It certifies that the use, operation or matter specified in the First Schedule taking place on the land described in the Second Schedule was lawful, on the specified date and therefore, was not liable to enforcement action under section 172 of the 1990 Act on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.

Please note that this decision notice only relates to matters under the Planning Acts and does not give consent under any other legislation that may apply to the development. You will need to carry out your own checks to determine whether any other consents or permissions are required. For example, the Building Regulations are likely to apply to most developments, and a Highways Licence may be required from West Sussex County Council for any development within the public highway (including the placing of skips on highway land).



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APPENDIX 2

APPEAL DECISION

Appeal Decision

Site visit made on 23 January, 2018

by **S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20th February, 2018

Appeal Ref: APP/C3810/W/17/3184243

Meadow View, Highground Lane, Barnham, PO22 0BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr D Keet against the decision of Arun District Council.
 - The application Ref: BN/8/17/PL dated 28 February, 2017 was refused by notice dated 23 June, 2017.
 - The development proposed is change of use of an outbuilding to 1 no. 2 bed dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of an outbuilding to 1 no. 2 bed dwelling at Meadow View, Highground Lane, Barnham, PO22 0BT in accordance with the terms of the application Ref: BN/8/17/PL dated 28 February, 2017 subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawings 1, 2, 3 and 5.

Preliminary Matter

2. The Council has drawn my attention to the emerging Local Plan. As, however, the Main Modifications have yet to be published for consultation, and its policies may be subject to change, this has reduced the weight I can attach to it. I have therefore determined the appeal in the light of the policies of the Arun District Local Plan 2003 (LP).

Main Issue

3. The main issue in this case is whether, in the light of national and development plan policy, the appeal site is a suitable one for housing in terms of its location in the countryside and accessibility.

Reasons

4. The appeal building is a single storey, modern garden room in a generous open setting benefitting from a Certificate of Lawful Development as residential garden. It is set in the countryside to the south west of the centre of Barnham, beyond the built-up boundary. Consequently the proposal conflicts with Policy GEN3 of the LP, which seeks to resist development outside the built-up area unless it complies with one of a number of criteria, which the appeal proposal does not do.
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5. Policy GEN3 seeks to safeguard the countryside for its own sake, and is not therefore fully in accord with the National Planning Policy Framework, which expresses as a core planning principle the recognition of the intrinsic character and beauty of the countryside while supporting thriving rural communities within it. This thus reduces the weight I can attach to it.
6. It is not a matter of contention between the parties that the Council is not able to demonstrate a deliverable five year housing land supply (HLS). Paragraph 49 of the Framework is clear that where this is the case relevant policies for the supply of housing should not be considered up-to-date. Paragraph 14 of the Framework states that where relevant policies are not up to date the presumption in favour of sustainable development means that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate the development should be restricted.
7. Paragraph 55 of the National Planning Policy Framework (the Framework) advises that new isolated homes in the countryside should be avoided, unless there are special circumstances, which the appeal dwelling would not meet. However, in a High Court judgement on 15 November, 2017¹ it was concluded that the term isolated should be given its ordinary, objective meaning of "far away from other places, buildings or people; remote" (para 23), and, in the context of the broader policy context of the National Planning Policy Framework to promote the economic, social and environmental dimensions of sustainable development, that the restriction of an "isolated home" to one that is isolated from services and facilities would deny policy support to a rural home that would contribute to social sustainability because of its proximity to other homes.
8. The appeal building is currently an outbuilding to an existing house, and sits amid a group of other dwellings. The route to the site along Church Lane from the settlement is, with some gaps, lined with dwellings. As a result of these factors and the High Court judgement, I conclude that the site could not be considered isolated for the purposes of Paragraph 55. As, therefore, no specific policies in the Framework indicates that the development should be restricted, the so called "tilted balance" applies.
9. There is a railway station and a small range of local services and facilities in Barnham at a distance from the site which was walkable at the time of my visit during the day. However, the road was potholed and uneven and has no footway and limited or no lighting, which leads me to conclude that it would discourage journeys on foot or by bicycle, particularly at night. It is very likely therefore that future occupiers of the dwelling would be reliant in private car journeys for many of their daily needs.
10. Nonetheless, I am mindful of Paragraph 29 of the Framework, which acknowledges that solutions to maximise sustainable transport may vary between urban and rural areas. In any case, the number of additional journeys generated by a single dwelling would be a minor increase over those already taken as a result of the number of dwellings in the vicinity, and therefore of limited harm.

¹ Braintree District Council v SSCLG, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin)

11. Policy GEN7 of the LP seeks a high quality of design and layout in new development. Although the Inspector in a previous appeal decision² in relation to an adjacent site concluded that this policy was not directly relevant to a proposed development for the re-use of buildings, as the term development also embraces changes of use, I must respectfully disagree with this conclusion.
12. As the effects of the current proposal would be neutral in relation to the character and appearance of the appeal building, the development would not conflict with policy GEN7 on that point. It would, however, for the reasons given above, give rise to conflict by not reducing the need to travel by private car.
13. Therefore, although the benefits arising from a single new dwelling in respect of contributing to the housing supply and to economic activity would be minor, I have not identified any harm of a sufficient magnitude demonstrably and significantly to outweigh these benefits. Consequently I conclude that in this case the presumption in favour of sustainable development constitutes a material consideration of sufficient weight to outweigh the conflict with development plan policy.
14. The appellant has also drawn my attention to policy DEV2 of the LP which relates to the conversion to residential use of rural buildings, but as this appears to be directed towards the economic consequences of conversion of farm buildings, and as the existing building is already in residential use, I conclude that this policy is not applicable in this case.
15. I have had regard to the appeal decisions³ put before me by the Council where the benefits of the proposals were also found to be minor, but as the harm in this case would also be minor, and as each case must be determined on its own merits, I have found nothing in them to cause me to alter my conclusions.

Other Matters

16. As a single additional dwelling would give rise to a small amount of additional traffic, I conclude that it would not be harmful to highway conditions. The appeal building is currently in use as a garden room, and as a result I conclude that it would not have any additional effect on surface water runoff in the area.

Conditions

17. The Council has supplied a list of conditions on which the appellant has had an opportunity to comment, and which I have considered in the light of the tests set out in paragraph 204 of the Framework.
18. In the interests of clarity a condition is attached requiring implementation of the development in accordance with the approved plans. As the building is already in place and in residential use, I do not consider it necessary or reasonable to add a condition relating to any proposed surface water drainage scheme.
19. Paragraph 200 of the Framework is clear that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification for doing so. No clear justification has been put before me

² Ref: APP/C3810/W/16/3155230

³ Ref: APP/C3810/W/17/3178447 & Ref: APP/C3810/W/16/3144398

demonstrating exceptional circumstances, and I thus conclude that it would not be necessary to add such a condition.

Conclusion

20. For the reasons given above therefore, I conclude that the appeal should be allowed.

S J Buckingham

INSPECTOR