

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development**REF NO:** BR/188/21/CLP**LOCATION:** 11 Hampton Court
Bognor Regis
PO21 5SS**PROPOSAL:** Lawful development certificate for the proposed change of use of garden shed to salon.**DESCRIPTION OF APPLICATION**

Proposed change of use of residential garden shed to hair and beauty salon. No external changes to the existing garden cabin are proposed. A proposed internal layout has been provided, showing 2 treatment chairs, a basin and nail treatment table.

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 proposal will be assessed against Section 55 of the Town & Country Planning Act 1990 (as amended) in respect of what constitutes a material change of use and material development.

Provided the proposed use would not represent a material change of use, and that no restrictive conditions to development nor Article 4 Direction/s have been imposed on the site, the proposed use would not constitute material development and would not require planning permission. If the use would represent material development and/or there are restrictive conditions to development or Article 4 Direction/s imposed on the site, then planning permission will be required for the use to take place.

CONCLUSION

SITE SPATIAL DESIGNATIONS AND PLANNING RESTRICTIONS:

The site is located in the Built-Up Area Boundary of Bognor Regis. There do not appear to be any restrictive planning conditions to development imposed on the property and there are no Article 4 Directions regarding changes of use imposed on the site.

RELEVANT LEGISLATION:

Section 55 of the Town & Country Planning Act 1990 states -

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.

National Planning Practice Guidance (NPPG) states in 'When is permission required' (paragraph 014) that "Planning permission will not normally be required to home work or run a business from home, provided that a dwelling house remains a private residence first and business second (or in planning terms, provided that a business does not result in a material change of use of a property so that it is no longer a single dwelling house). A local planning authority is responsible for deciding whether planning permission is required and will determine this on the basis of individual facts. Issues which they may consider include whether home working or a business leads to notable increases in traffic, disturbance to neighbours, abnormal noise or smells or the need for any major structural changes or major renovations."

If a use does not significantly alter the ambience of a house, either in terms of appearance, noise, smell or comings and goings, if no special machinery or equipment not normally found at a house is installed and if the room or rooms used could easily revert to residential use at the end of the working day, then it can be concluded that a material change of use has not occurred. If the uses are so minor or have only occurred briefly or intermittently, then the legal concept of 'de minimis' may well be applicable.

Whether a change of use is material or not is a matter of 'fact and degree' and must be assessed on the facts of the individual case.

ASSESSMENT:

The applicant has described the use of the garden cabin as a hair/beauty salon as follows:

- Number of staff will be 1 person.
- Expected clients per day will be 2-5 clients.

- Working hours proposed are: Tuesday & Wednesdays 9.30am-2.30pm, Thursdays 2-8pm and Saturdays 9am-1pm.
- Parking on-site or in on-street parking area within Hampton Court.

As per the NPPG guidance, the application is to be determined on the basis of the individual facts. In this case, as described, the dwelling house would remain a private residence first and a business second, the use being ancillary to the use of the main house, and is unlikely to result in notable increases in comings and goings/disturbance to neighbours, abnormal noise or smells or increases in traffic, given the size of the cabin, and the limited staff and expected client numbers. It is noted that the proposed use for hair and beauty treatments may lead to the installation of specialist equipment and may generate some noise and smells associated with this use. However, based on the individual facts of this case with small cabin and limited customer numbers and hours of use, this is considered unlikely to be significant. In addition, as per the working hours described, the use would occur intermittently.

In conclusion, on the basis of the individual facts of this particular case, the hair/beauty salon use as described would be ancillary to the use of the main house as a dwelling, and is not considered to constitute a material change of use, as defined under Section 55 of the Town & Country Planning Act. The proposal would therefore not require planning permission and the Certificate can be issued accordingly.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on 20th July 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, would have been lawful within the meaning of section 192 of the Town & Country Planning Act 1990 for the following reason:

- The proposal would not constitute a material change of use, as defined by Section 55 of the Town & Country Planning Act 1990, and as per NPPG guidance.

FIRST SCHEDULE

Use of the garden cabin in rear garden of 11 Hampton Court, Bognor Regis for a hair/beauty salon, as shown on plans:

- Location Plan (received 03/08/2021)
- Proposed Block Plan (received 28/09/2021)
- Cabin Proposed Floor Plan and Existing Elevation (received 28/09/2021)
- Emails received from applicant Elysia Wylie dated 12/09/2021 and 13/09/2021 describing use, staff nos., client nos., working hours and parking arrangements.

INFORMATIVE: The approval of this Certificate relates solely to the use of the garden cabin and does not relate to the physical structure of the garden cabin itself, which may require planning permission.

SECOND SCHEDULE

Garden cabin in rear garden of 11 Hampton Court, Bognor Regis (as denoted in Proposed Block Plan, received 28/09/2021).

EXTENT OF USE

Proposed change of use of garden cabin in rear garden of 11 Hampton Court, Bognor Regis to hair/beauty salon.

BR/188/21/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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