

Recommendation Report for Lawful Development Certificate for an Existing Use or Operation or Activity including those in breach of a planning condition.

REF NO: BR/291/20/CLE

LOCATION: 48 Applegate Way
Bognor Regis
PO21 5GB

PROPOSAL: Lawful development certificate for an existing conservatory.

DESCRIPTION OF APPLICATION

Single storey extension (conservatory) to the rear of No 48 Applegate Way. Conservatory is 3m deep and 2.1m high to the eaves and approximately 3.2m to the pitch of the glassed roof, extending the whole width of the rear elevation including the attached garage. The conservatory has a two parts with two hipped roof with a valley in the between (one behind the main house and another behind the garage). The part behind garage is not attached to its rear elevation; there is a gap of approximately 0.3m in the between of conservatory and garage. 3 pane bi-fold doors with window on the each side are inserted to the rear of the part behind the main building and French doors to the rear of part behind the garage. North-eastern elevation is from solid bricks and south-western uPVC infill Panels. The conservatory is sitting on a floor slab.

SITE AND SURROUNDINGS

Semi-detached two storey gabled roof dwelling with attached garage linking the property No 50 Applegate Way to the south-west within residential estate.

RELEVANT SITE HISTORY

Outline and reserve matters approved applications did not include any permitted development restrictions relating to garages. As such the existing conservatory using permitted development rights of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

REPRESENTATIONS

Representations Received:

Bognor Regis Town Council

Bognor Regis Town Council: No objection.

Comments on Representations Received:

Noted.

CONSULTATIONS

Consultations Responses Received:

None.

Comments on Consultation Responses:

N/A

LEGISLATIVE BACKGROUND

Section 191 of the Town and Country Planning Act 1990 as amended by section 10 of the Planning Compensation Act 1991 states:-

(1) If any person wishes to ascertain whether:

(a) any existing use of buildings or other land is lawful;

(b) any operations which have been carried out in, on, over or under land are lawful; or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if:

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and

(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time:

(a) the time for taking enforcement action in respect of the failure has then expired; and

(b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(5) A certificate under this section shall:

(a) specify the land to which it relates;

(b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);

(c) give the reasons for determining the use, operations or other matter to be lawful; and

(d) specify the date of the application for the certificate.

In this instance the proposed works will be assessed against the Town and Country Planning (General Permitted Development) (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 conservatory is considered to fall under Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020

Development not permitted

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.

No 48 Applegate Way is a semidetached property, not a Listed Building or within a Conservation Area.

The conservatory, subject of this application is 3m deep and 3.2m high and it complies with all sections above and it is established that an existing conservatory is a lawful development and therefore it does not require the submission of an application for full planning permission.

RECOMMENDATION

APPROVE

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 lawful within the meaning of section 191 of the Town & Country Planning Act 1990 by reason that at the time the extension was constructed it would have constituted permitted development.

FIRST SCHEDULE

Construction of single storey rear extension in accordance with the limitations of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015. Construction of single storey rear extension measuring 8.3m in width and 3m in depth The single storey extension has a maximum height of 3.2m with an eaves height of 2.1m. The materials are not matching those of the original dwellinghouse; other than the materials used in the construction of a conservatory; A.3 (a).

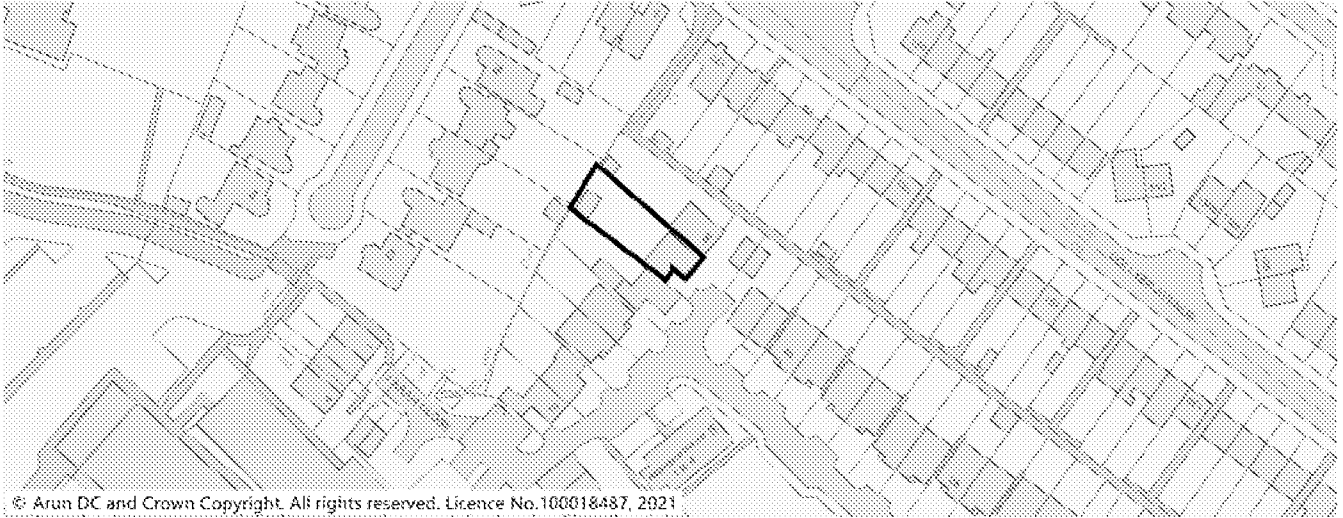
SECOND SCHEDULE

48 Applegate Way, Bognor Regis, PO21 5GB

EXTENT OF USE

Single storey rear extension (conservatory) located to the rear of the original dwellinghouse in accordance with submitted drawings of Roof Plan and Elevations dated 09/11/20.

BR/291/20/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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