

EP/104/06/CLP**CERTIFICATE OF LAWFULNESS OF PROPOSED USE OR DEVELOPMENT REPORT**

DESCRIPTION/ ADDRESS	- Application for certificate of lawfulness for proposed use for erection of a conservatory. 23 Worthing Road, East Preston.
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THE SITE AND ITS SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The proposed conservatory measures 3.9m in width, 4.1m in depth and 3.1m in height.
SITE AREA	Approximately 0.045ha.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A
TOPOGRAPHY	Predominantly flat.
TREES	None
BOUNDARY TREATMENT	The rear is kept by close boarded fencing approximately 1.5m high to the east and west, and 1.8m high to the north.
SITE CHARACTERISTICS	A single storey detached dwelling formed of brown brick with a brown plain tiled hipped roof. There is a single detached garage to the northeast with a summerhouse behind.
CHARACTER OF LOCALITY	The site lies in a residential area comprising similar style detached bungalows.

RELEVANT PLANNING HISTORY

REFERENCE	DESCRIPTION	DECISION
None		

REPRESENTATIONS RECEIVED

SOURCE	SUMMARY OF CONTENT
East Preston Parish Council	No objection.
Local Groups	None
Others	None

CONSULTATION RESPONSES

CONSULTEE	SUMMARY OF RESPONSE
Planning Solicitor	This fits within GPDO 1995 Schedule 2 Class A.

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POLICY COMMENTARY

The Town and Country Planning (General Permitted Development) Order 1995.

COMMENT ON CONSULTATION RESPONSES

Noted.

COMMENT ON REPRESENTATIONS RECEIVED

Noted.

ASSESSMENT OF PROPOSAL**DEVELOPMENT PLAN AND/OR 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."

1. Principles

Section 191-195 Town and Country Planning Act 1990 and DoE Circular 10/97 Annex 8 have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy:-

- (i) Which is to be judged on a balance of probability
- (ii) The onus of proof is on the applicant (and not the LPA) to adduce the evidence
- (iii) The LPA may have on its files relevant evidence either supporting or contradicting that of the applicant

2. Assessment

The proposed conservatory would be classed as permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 because of the following reasons:

- It relates to the enlargement of a dwellinghouse;
- No part of the proposed conservatory would be nearer to any highway which bounds the curtilage of the dwellinghouse than:-
 - i) the part of the original dwelling house nearest to the highway, or
 - ii) any point 20 metres from that highway;
 whichever is nearer to the highway;
- The height of the conservatory would not exceed the highest part of the existing roof;
- The total area of ground covered by buildings within the curtilage would not exceed 50% of the total area of the curtilage;

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- The proposed conservatory would be within 2m of the boundary but would not exceed 4m in height;
- The land is not within Article 1(5) land or the curtilage of a Listed Building;
- There is an existing detached garage that exceeds the volume of the original garage by 12.4m^3 . The proposed conservatory will enlarge the existing dwellinghouse by 39.8m^3 . The total of these additions therefore represents an enlargement of 52.2m^3 , which does not exceed the cubic content of the original dwellinghouse by 70m^3 .

3. Conclusion

It is therefore considered that the proposed conservatory would be permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Planning Acts and/or legislative background.

CONCLUSIONS

It is considered that the proposed conservatory would be permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995.

It is therefore recommended that the Certificate of Lawfulness for a Proposed Use or Development be approved.

EAST PRESTON

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RECOMMENDATION

Approve

- 1 The Arun District Council hereby certify that on the 23rd August 2006 the proposed development hereby described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and described as erection of a conservatory and shown in submitted plans dated 11th July 2006 of approved planning application EP/104/06/CLP was lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reasons. That the proposed conservatory would constitute permitted development under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995.
- 2 "The development" concerned is for building works to construct a hipped roof conservatory to the north elevation of the original dwellinghouse as detailed in the plans submitted with the application.
- 3 One conservatory would measure 3.9m in width and 4.1m in depth with a maximum height of 3.1m above ground level. The cubic content of the extension would be approximately 39.8 cubic metres.
- 4 23 Worthing Road, East Preston.

