

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development

REF NO: FP/60/18/CLP

LOCATION: 16A Park Drive
Felpham

PROPOSAL: Lawful development certificate for the proposed removal of existing sub standard porch, reduce size of 1 No. existing window & install new window to match existing.

DESCRIPTION OF APPLICATION

The proposal seeks to demolish the front porch, reduce the size of one window and add another window to the ground floor.

DESCRIPTION OF SITE AND SURROUNDINGS

The property is set back from the street scene within the site. The area is populated by a mix of housing styles and types.

RELEVANT SITE HISTORY

Noted.

REPRESENTATIONS

Representations received:

None.

Comments on Representations received:

N/A

CONSULTATIONS

Consultations responses received:

None.

Comments on Consultation responses:

N/A

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).

- Part 1 - Class A, which pertains to the enlargement, improvement, or other alterations to a dwellinghouse.

- Part 11 - Class B, which pertains to any building operations consisting of the demolition of a building

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.

CONCLUSIONS

THE RELEVANT PART OF THE GPDO

Schedule 2, Part 1, Class A;

"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) fronts a highway, and

(ii) forms either the principle elevation or 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 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 opposite the rear wall of the 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 one storey, or
- (iii) have a width greater than half the width of the original dwellinghouse; or

(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 one storey and extend beyond the rear wall of the original dwellinghouse.

A.3 Development is permitted by Class A subject to the following conditions

(a) the materials used in any exterior work (other than the materials used in the construction of a conservatory) shall 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 1.7M above the floor of the room in which the window is installed; and

(c) where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part shall, so far as practicable, be the same as the roof pitch of the original dwellinghouse."

Schedule 2, Part 11, Class B states:

(a) where demolition is urgently necessary in the interests of safety or health and the measures immediately necessary in such interests are the demolition of the building the developer must, as soon as reasonably practicable, give the local planning authority a written justification of the demolition;

(b) where the demolition does not fall within paragraph (a) and is not excluded demolition =

(i) the developer must, before beginning the development -

(aa) in all cases, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site; and

(bb) in cases where the building is not a community asset and is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, send a written request to the local planning authority as to whether the building has been nominated;

(ii) an application described in paragraph (b)(i)(aa) must be accompanied by a written description of the proposed development, a statement that a notice has been posted in accordance with paragraph (b)(iv) and any fee required to be paid;

(iii) a request described in paragraph (b)(i)(bb) must include the address of the building, the developer's contact address and, if the developer is content to receive communications electronically, the developer's email address;

(iv) subject to paragraph (b)(v), the applicant must display a site notice by site display on or near the land on which the building to be demolished is sited and must leave the notice in place for not less than 21 days in the period of 28 days beginning with the date on which the application was submitted to the local planning authority;

(v) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in paragraph (b)(iv) has elapsed, the applicant is treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement;

(vi) where the building is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order and the building is nominated, whether at the date of request under paragraph (b)(i)(bb) or on a later date, the local planning authority 88 Section 196D was inserted by paragraph 6 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 Page 116 of 205) must notify the developer as soon as is reasonably practicable after it is aware of the nomination, and on notification development is not permitted for the specified period;

(vii) subject to paragraph (b)(x), the development must not begin before the occurrence of one of the following -

(aa) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;

(bb) where the local planning authority give the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval; or

(cc) the expiry of 28 days following the date on which the application was received by the local planning authority without the local planning authority making any determination as to whether such approval is required or notifying the applicant of their determination;

(viii) the development must, except to the extent that the local planning authority otherwise agree in writing, be carried out -

(aa) where prior approval is required, in accordance with the details approved;

(bb) where prior approval is not required, in accordance with the details submitted with the application;

(ix) subject to paragraph (b)(x), the development must be carried out -

(aa) where approval has been given by the local planning authority, within a period of 5 years from the date on which approval was given;

(bb) in any other case, within a period of 5 years from the date on which the local planning authority were given the information referred to in paragraph (b)(ii); and

(x) where the building is used for a purpose falling within Class A4 (drinking establishments) of the Schedule to the Use Classes Order, in addition to the requirements of paragraph (b)(vii) and (ix), the development must not begin before the expiry of a period of 56 days following the date of request under paragraph (b)(i)(bb) and must be completed within a period of 1 year of the date of that request.

SUMMARY

The proposed alterations to fenestration satisfies criteria and conditions set out with Part 1, Class A. The site is not located on article 2(3) land and is not a Listed Building. There is no restriction on permitted development rights to extend or alter the application dwelling by means of a condition or Direction.

The proposed fenestration alterations to the dwelling are therefore considered to accord with the limitations of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and are considered to be 'permitted development', as such this proposal does not require an application for planning permission.

The proposed demolition of the front porch is not considered to be development, specified in Paragraph 55 of the Town & Country Planning Act 1990. This is because the alteration of the building is not considered to materially affect the external appearance of the building. Additionally, the proposed demolition would not fall under Part 11, Class B as it related to an extension, not a building. As such, the proposed demolition does not require an application for planning permission.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on 02/05/2018 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, would have been lawful within the meaning of section 192 of the Town & Country Planning Act 1990 for the following reasons:

The proposed changes in fenestration are considered to be in accordance with Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

The proposed demolition of the front porch is not considered to be development, as specified in Paragraph 55 of the Town and Country Planning Act 1990.

FIRST SCHEDULE

Demolition of front porch, size reduction of one window and addition of one window.

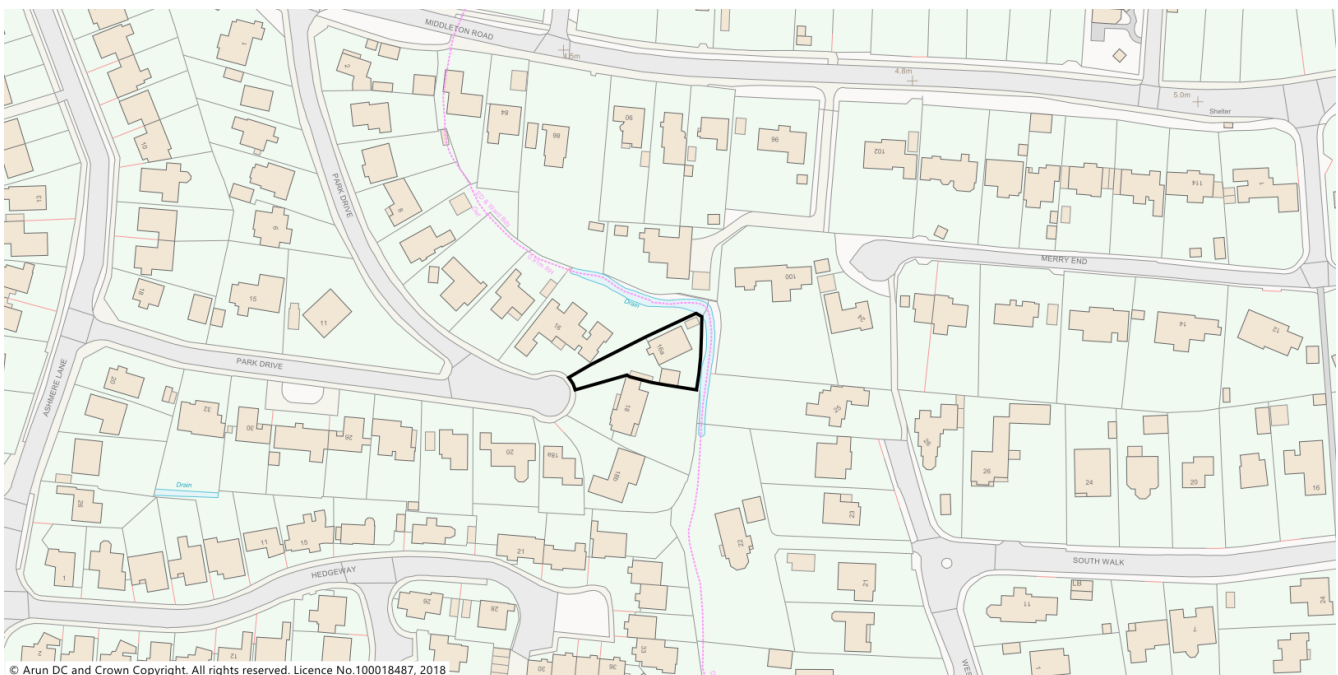
SECOND SCHEDULE

16a Park Drive, Felpham, PO22 7RD.

EXTENT OF USE

The proposed development shall be carried out in accordance with the following plans:

- Floor Plan
- Proposed Floor Plan
- Ground Floor Plan



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