

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

REF NO: LU/132/15/CLP

LOCATION: 5 The Waterside
River Road
Littlehampton

PROPOSAL: Lawful development certificate for the proposed change of front garden, which consists of hard surface with gravel stones, to a car parking space.

DESCRIPTION OF APPLICATION

The application seeks confirmation that planning permission is not required. The works involved are the removal of the existing planting in the area under the control of no.5 and between it and the 'courtyard'. There would also be some increase in the gravelled area where planting would be removed. Unlike other areas of landscaping serving these dwellings, the planting within the subject area is limited.

DESCRIPTION OF SITE AND SURROUNDINGS

The site is comprised of a dwelling set within a relatively new development adjoining the Arun river. Access to the site is shared and off River Road. There is a shared 'courtyard' used by nos. 3, 4, 5 and 6. This area provides 1 space for each dwelling in front of its garage. There are 4 garages and 4 parking spaces at the present time and the remainder of the courtyard is taken up for the most part by the turning head. In addition, there are also planted areas immediately in front of the dwellings where they face to 'courtyard'. These areas are approximately 3.73m deep and are a mixture of planting and gravel and provide a landscaped frontage to the 'courtyard' for each dwelling.

RELEVANT SITE HISTORY

LU/26/99/	Erection of Shed in corner of patio	Inc Docs Ret'nd 25-02-1999
LU/353/10/	Replacement of existing wooden window frames with 11 new white PVCu double glazed windows, and replacement of french doors with new white PVCu doors.	ApproveConditionally 12-01-2011

This development was granted for the development of these dwellings under LU/27/96.

There is one condition (no.10) relating to landscaping and this states:

all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following occupation of the buildings or completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next

planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

This condition relates to the whole of the development (nos. 3, 4, 5 and 6). The condition does not include the terms 'and shall be thereafter retained or maintained'. The condition requires delivery of the landscaping scheme and its maintenance for a 5 year period.

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 criteria contained within The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008, Part 1.

- Class F, which pertains to the provision of hard surfaces on land surrounding the house such as driveways.

Provided the proposed works satisfy the relevant criteria, and no restrictive conditions to development have been imposed on the site, the proposed works could constitute Permitted Development and might not require planning permission.

If the works fail to accord with the criteria then planning permission is required.

If the works are prevented by reason of a planning condition then planning permission is required.

CONCLUSIONS

The wording of condition 10 on planning permission LU/27/96 is such that the retention of the landscaped area and associated planting is not required. See Comments on Planning History. Therefore the use of this area as a parking space and removal of the planting does not require planning permission.

The issue in this application is therefore whether the formation of the parking area proposed requires planning permission. The site is a dwelling and therefore benefits from 'Permitted Development

Rights'. In order for planning permission not to be required, the formation of the car space must comply with the following:

Class F

Permitted development

F. Development consisting of -

- (a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such; or
- (b) the replacement in whole or in part of such a surface.

Development not permitted

F.A1 Development is not permitted by Class F where permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class IA or MB of Part 3 of this Schedule (changes of use).

Conditions

F.1. Development is permitted by Class F subject to the condition that where -

- (a) the hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and
- (b) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres,

either the hard surface shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

In this instance, the formation and use of the landscaped area as a parking space involves removal of landscape planting from an area comprised of gravel. Whilst the area exceeds 5 square metres, the area would remain a gravel one and therefore would be permeable. The hardstanding proposed therefore meets the limitations imposed by Class F.

Planning permission is not therefore required for the car space, whether in terms of the planning condition or the Class F.

RECOMMENDATION

APPROVE

The Arun District Council hereby certify that on 29 June 2015 the development/operation 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 192 of the Town & Country Planning Act 1990 by reasons of:

1. The formation of the car parking space meeting the requirements of Class F within Part 1 of Schedule 2 of Town and Country Planning (General Permitted Development) Order 1995 (as

amended)

2. The retention of the area of the car parking space as a landscaped area not being required by Condition 10 of Planning permission Number LU/27/96

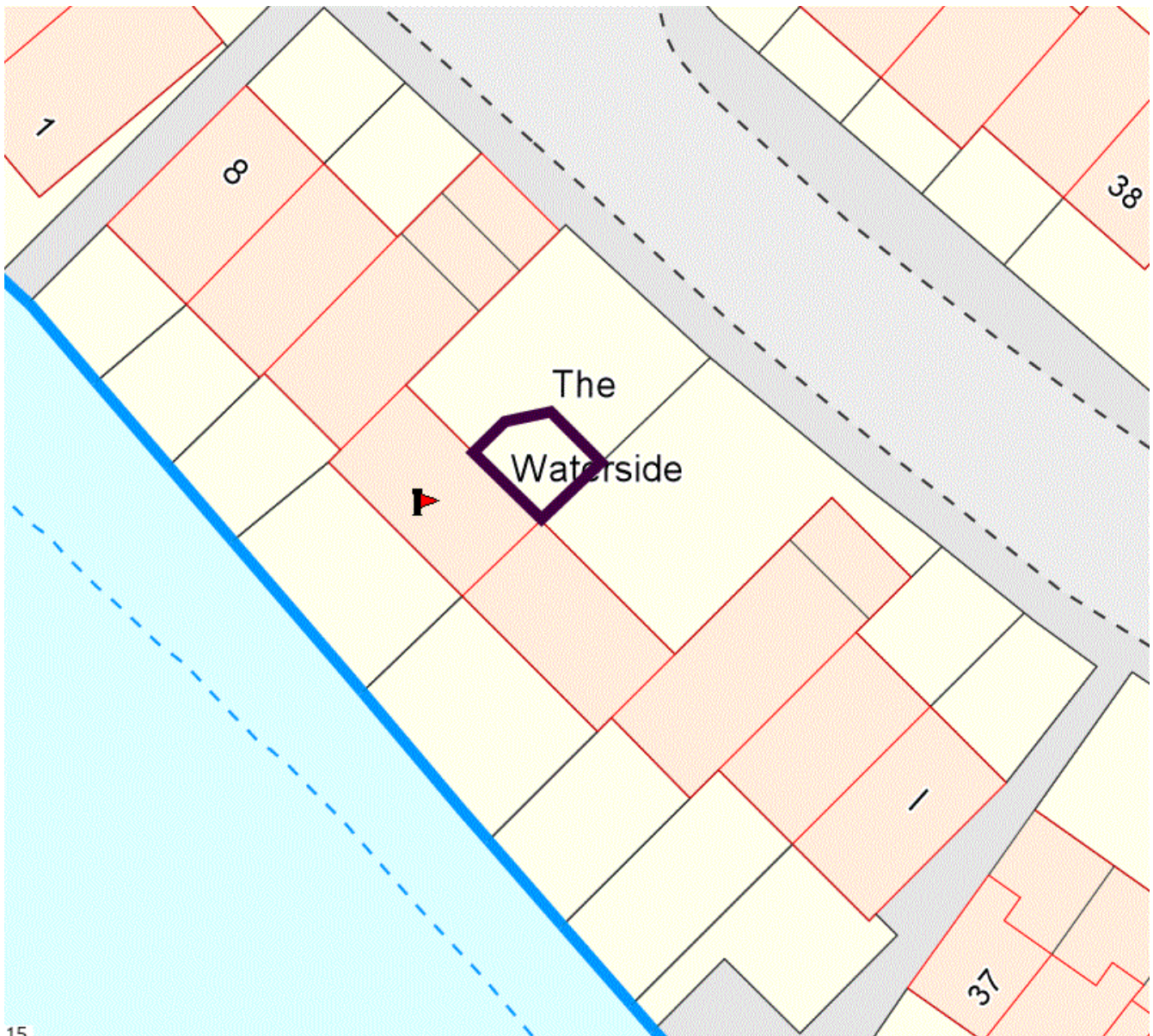
FIRST SCHEDULE

The area of the car parking space is located adjacent to the front elevation of no.5 The Waterside. It is an irregularly shaped area and has a width of between 4.6m and 3.3m and an overall depth of 3.79m, It is to be formed by removal of landscape planting and the surface material will be porous gravel as existing at present.

The car parking space is detailed edged in red on a copy of an original site layout dated 20 May 2015 and on a dimensioned site plan dated 20 May 2015, Scale 1:25.

SECOND SCHEDULE

A car parking space to the front of no.5 The Waterside, Littlehampton BN17 5TA



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