

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

REF NO: LU/339/21/CLP

LOCATION: Southdown Nursery, The Bungalow
Old Mead Road
Littlehampton
BN17 7PU

PROPOSAL: Lawful development certificate for a proposed new detached outbuilding

DESCRIPTION OF APPLICATION

This application seeks an outbuilding measuring 13.71m by 6.09m to contain 2 bedrooms, 2 baths, kitchen and living space. The building would be located behind the primary elevation of the dwelling house and be under 4m in height.

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 proposed works will be assessed against the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2015 (as amended).

- Class E, which pertains to the provision of an outbuilding within the curtilage of 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 single storey outbuilding is considered to fall under Schedule 2 part 1 class E of the town and country planning (General Permitted Development) (England) Order 2015.

Class E - Buildings etc incidental to the enjoyment of a dwellinghouse

E. The provision within the curtilage of the dwellinghouse of

- (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or
- (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

Development not permitted

E.1 Development is not permitted by Class E if

- (a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use);
- (b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);
- (c) any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;
- (d) the building would have more than a single storey;
- (e) the height of the building, enclosure or container would exceed
 - (i) 4 metres in the case of a building with a dual-pitched roof,
 - (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwellinghouse, or
 - (iii) 3 metres in any other case;
- (f) the height of the eaves of the building would exceed 2.5 metres;
- (g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;
- (h) it would include the construction or provision of a verandah, balcony or raised platform;
- (i) it relates to a dwelling or a microwave antenna; or
- (j) the capacity of the container would exceed 3,500 litres.

E.2 In the case of any land within the curtilage of the dwellinghouse which is within

- (a) an area of outstanding natural beauty;
- (b) the Broads;
- (c) a National Park; or
- (d) a World Heritage Site,

Development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10

square metres.

E.3 In the case of any land within the curtilage of the dwellinghouse which is article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.

Interpretation of Class E

E.4 For the purposes of Class E, "purpose incidental to the enjoyment of the dwellinghouse as such" includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

The property known as Southdown Nursery, The Bungalow is a detached property and is not listed or within a conservation area.

The proposed outbuilding would consist of 2 bedrooms, 1 with en-suite, a kitchen, living area with 2x bay windows and dining room and further bathroom. Its overall gross internal floor area would be 72.05 square meters.

The outbuilding would be situated to the north of the bungalow. The land adjacent to the northern elevation of the bungalow which appears to have been utilised for agricultural purposes until at least 2016, and was sectioned off with a fence and hedgerow boundary. No evidence has been supplied stating that the land to the north of the bungalow is now part of the residential curtilage and as such on the balance of probability this land fall outside of the residential curtilage of the dwellinghouse and is not afforded Permitted development Rights under Schedule 2 part 1 of the GPDO.

Furthermore para E.4 of Class E the GPDO states that purposes incidental to the enjoyment of the house includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the house. Technical Guidance for the GPDO confirms that Class E allows a large range of other buildings on land surrounding a house. Including garden sheds, other storage buildings, garages, and garden decking as long as they can be properly described as having a purpose incidental to the enjoyment of the house. It clarifies that a purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation nor the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen.

A residential annex or outbuilding would normally be described as primary accommodation. The outbuilding which is subject of this application would include 2x bedrooms, living, dining and kitchen space so that it could function as an independent unit. I do not consider this building to be incidental to the enjoyment of the main dwelling house.

The proposed outbuilding conflicts with relevant sections E.4, nor is land believed to be within the residential curtilage of the dwellinghouse and it is not considered permitted development and as such does require the submission of an application for full planning permission.

RECOMMENDATION

PP REQUIRED

The Arun District Council hereby certify that on 26th October 2021 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 not lawful within the meaning of section 192 of the Town & Country Planning Act 1990 by reason of compliance with the relevant criteria within Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015.

FIRST SCHEDULE

The proposed outbuilding is considered to fall under Schedule 2 Part 1 of the GDPO.

The development hereby refused under the following plans:

- Supporting Statement**
- Proposed Floor Plans and Elevations 1093/01**
- Location and Block Plans 1093/02 Rev A**

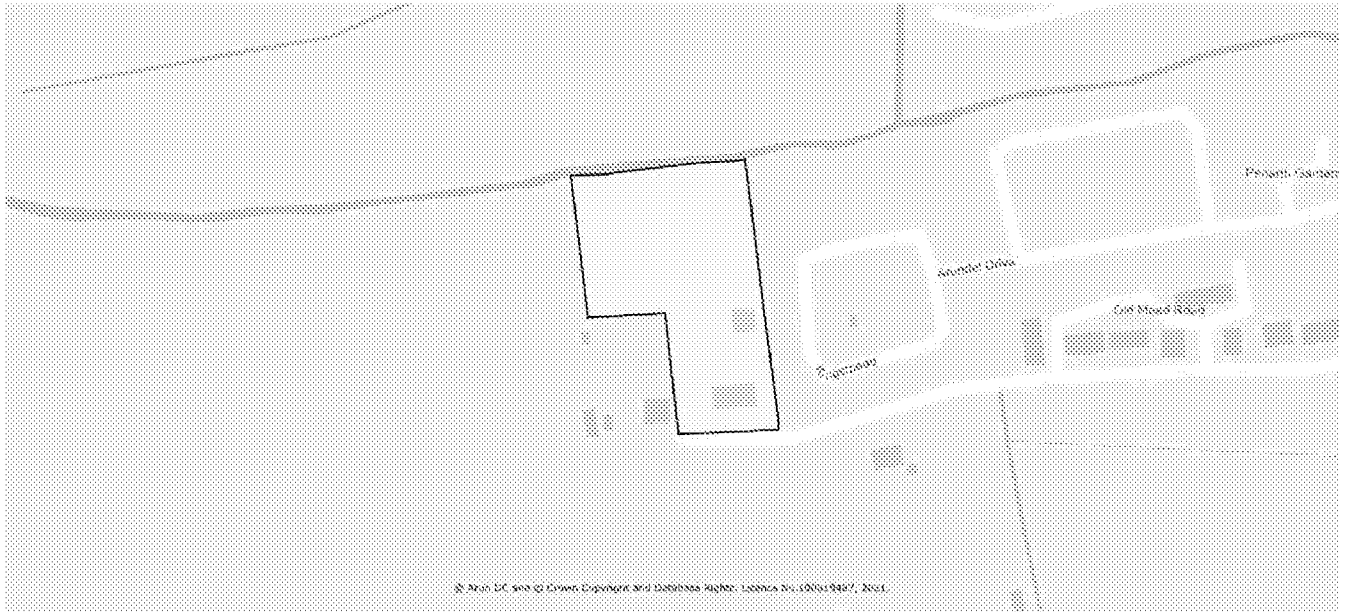
SECOND SCHEDULE

The Bungalow, Southdown Nursery, Old Mead Road, Lyminster

EXTENT OF USE

Outbuilding measuring 13.71m by 6.09m to contain 2 bedrooms, 2 baths, kitchen and living space.

LU/339/21/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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