

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

REF NO: P/92/26/CLE

LOCATION: 12 Sea Lane
Pagham
PO21 4UL

PROPOSAL: Lawful development certificate for an existing rear domestic extension to form sunroom area off living room for single storey domestic property.

DESCRIPTION OF APPLICATION

This application seeks a Lawful Development Certificate for an existing rear extension to form sunroom area off of the living room of residential dwelling.

SITE AND SURROUNDINGS

The site is a detached bungalow at 12 Sea Lane, Pagham.

RELEVANT SITE HISTORY

P/7/11/	Extensions & alterations	ApproveConditionally 01-04-11
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Noted, the living room extension was omitted from the P/7/11/PL application despite prepared plans.

REPRESENTATIONS

Representations Received:

Pagham Parish Council
No objection.

No other representation received.

Comments on Representations Received:

Noted.

CONSULTATIONS

Consultations Responses Received:

LEGISLATIVE BACKGROUND

Section 191 of the Act states:

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

(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

Section 171B of the Town and Country Planning Act 1990 states:

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining, or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach."

The relevant time period is 30 June 2016 to 30 June 2026 where the latter is the date of the application.

Section 191 to 195 Town & Country Planning Act 1990 have the effect of requiring these applications to be determined having regard only to the evidence adduced and not planning policy:

(i) What is judged on a balance of probability.

(ii) The onus of proof is on the applicant (and not the Local Planning Authority (LPA)) to adduce the evidence; and

(iii) The LPA may have on its files relevant evidence either supporting or contradicting that of the applicant.

Paragraph 006 (Reference ID: 17c-006-20140306) of the National Planning Practice Guidance (NPPG) states:

"The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence,

this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counterevidence.

In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability."

Section 191(4) 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 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.

CONCLUSION

The rear living room extension is assessed against the Town and Country Planning Act 1990, Section 171B, which states:

"(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of

(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed, and."

The applicant has provided photographs and ariel imagery dating from 2012 showing the extension in place.

12 Sea Lane is subject to permitted development restrictions in respect of enclosures to the front boundary irrelevant to the extension considered under this certificate.

OFFICERS COMMENTS

The evidence judged on a balance of probability is sufficient. The LPA has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version less than probable, and indeed has some evidence which lends weight to the established nature of the rear living room extension. On this basis, the living room extension has been in situ in excess of 10 years. The period within which the LPA could take enforcement action against this use has expired. There is therefore no good reason to refuse the application and it is therefore recommended that the certificate is granted in accordance with the following terms.

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 date specified above, the operational development specified was substantially completed for a period greater than 4 years, and the land formed part of the residential curtilage of the property for a period greater than 10 years.

FIRST SCHEDULE

The single storey rear extensions as shown on the following plans:

Location Plan and Block Plan PL-01

Proposed Elevations 10/60/3

Proposed Floor Plan 10/60/04

Supporting Statement

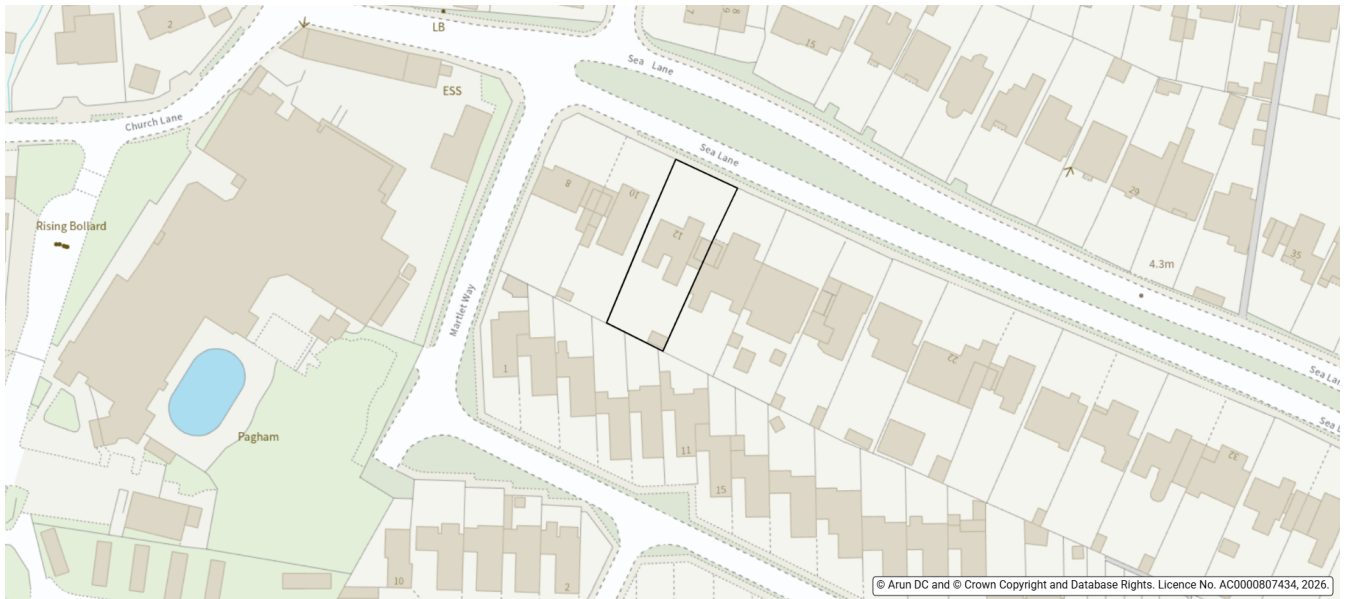
SECOND SCHEDULE

12 Sea Lane, Pagham, PO21 4UL

EXTENT OF USE

Construction of the existing rear living room extension.

P/92/26/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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