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

REF NO: **R/103/22/CLE**

LOCATION: 24 Shirley Close
Rustington
BN16 2EG

PROPOSAL: Lawful development certificate for an existing rear extension to bungalow.

DESCRIPTION OF APPLICATION

The application seeks a lawful development certificate for the construction of a single storey rear extension to a detached bungalow. The proposal relates to the construction of a single storey rear extension to the rear (western elevation) of the property measuring 7.7m in width and 4m in depth. The single storey extension has a maximum height of 2.8m with an eaves height of 2.5m and is constructed from materials which match in appearance those used in the construction of the original dwellinghouse.

SITE AND SURROUNDINGS

The property is a detached brick and tiled bungalow located in a predominantly residential area and features properties of a similar design and style.

RELEVANT SITE HISTORY

Noted.

REPRESENTATIONS

Representations Received:

Rustington Parish Council

No Objection

Comments on Representations Received:

None

CONSULTATIONS

Consultations Responses Received:

Parish Council - No objection.

Comments on Consultation Responses:

Noted.

LEGISLATIVE BACKGROUND

Section 191 of the Town and Country Planning Act 1990 states:-

(1) If any person wishes to ascertain whether.

(a) any existing use of buildings or other land is lawful;

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(b) any operations which have been carried out in, on, over or under land are lawful; or

(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,

They may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

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

(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.

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.

In this instance the proposed works will be assessed against the criteria contained within The Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 1, Class A, which pertains to the enlargement, improvement, or other alterations to 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

Having examined the planning history associated with this site I have been unable to identify any evidence to suggest that permitted development rights for extensions to dwellings have been removed or restricted by planning condition. The site is also identified as not being located on Article 2(3) land.

Therefore, the assessment of the certificate of lawfulness will be against the limitations of Schedule 2, Part 1, Class A of the Town and Country (General Permitted Development) Order 2015.

SINGLE STOREY EXTENSION
Under Schedule 2, Part 1, Class A the following limitations and conditions apply:

"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) forms the principal elevation of the original dwellinghouse; or
(ii) fronts a highway and forms 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 original 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 a single 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 a single 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 materials used in the construction of a conservatory) must 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 1.7 metres above the floor of the room in which the window is installed; and

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

The property known as 24 Shirley Close is a detached dwelling, is not a Listed Building or within a Conservation Area. The single storey rear extension is sited on the rear elevation of the dwelling. It extends 4 metres from the rear wall of the dwellinghouse, with a ridge height of 2.8 metres and is constructed from materials which match those used in the construction of the host dwelling.

Therefore, it is considered that the single storey rear extension does comply with sections (a),(b),(c),(d),(f)(i)(ii),(i),A.3(a), (c) and as such is considered to be "Permitted Development", and therefore did not require the submission of an application for planning permission.

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 time the extensions were constructed they would have constituted permitted development.

FIRST SCHEDULE

Construction of single storey rear extension in accordance with the limitations of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015. Construction of single storey rear extension measuring 7.7m in width and 4m in depth. The single storey extension has a maximum height of 2.8m with an eaves height of 2.5m. The materials match those of the original dwellinghouse.

SECOND SCHEDULE

24 Shirley Close, Rustington.

EXTENT OF USE

Single storey rear extensions located to the rear of the original dwellinghouse built in accordance with plans;

- Location and Existing Plans 2791/01/01.
- Proposed Plans and Elevations 2791/01/02.

R/103/22/CLE - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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