

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

REF NO: Y/96/18/CLP

LOCATION: 5 Hobbs Court
The Potting Barn
Bilsham Road Yapton

PROPOSAL: Certificate of lawfulness for a proposed use - erection of freestanding victorian arch

DESCRIPTION OF APPLICATION

The installation of a freestanding Victorian arch (garden furniture akin to a freestanding trellis at the front of a detached dwellinghouse measuring 160 cm by 230 cm in plan with a height of 2 metres.

DESCRIPTION OF SITE AND SURROUNDINGS

RELEVANT SITE HISTORY

REPRESENTATIONS

Representations received:

Comments on Representations received:

CONSULTATIONS

Consultations responses received:

Comments on Consultation responses:

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 s55 - meaning of development and new development of the Town and Country Planning Act 1990 as amended

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 proposed Victorian arch is not considered to be development when assessed against s55 of

the Town and Country Planning Act 1990 as amended.

s. 55 - Meaning of "development" and "new development".

(1) Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

(1A) For the purposes of this Act " building operations " includes

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.

The site is a Grade II Listed Building.

Permitted development rights to erect extensions and outbuildings at the site have been removed under condition 6 of Planning permission Y/65/15/PL

Condition 6 - Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting this Order) no extensions (including porches and dormer windows) to the dwelling houses shall be constructed or outbuildings shall be erected within the curtilage unless permission is granted by the Local Planning Authority on an application in that behalf.

Reason: To safeguard the privacy and amenity of adjoining occupiers, maintain adequate amenity space and safeguard the cohesive appearance of the development in accordance with policy GEN7 of the Arun District Local Plan.

The Victorian arch, as stated in the Design and Access Statement accompanying the application, would be affixed to the ground using pegs and could be easily moved by the occupants of the dwellinghouse without the need for a person carrying out business as a builder. The proposal is not considered to be a building operation nor any other form of development defined under s55 of the Town and Country Planning Act 1990 as amended.

It is therefore considered that the proposed Victorian Arch is not development, would not be subject to conditions restricting development at the site and would not require planning permission.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on 30/11/2018 the Victorian arch 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;

Y/96/18/CLP

The proposed installation of a Victorian Arch would not constitute development in accordance with s.55 of the Town and Country Planning Act 1990 as amended because the structure would be freestanding, moveable and would not require a builder or tradesman to install it.

The installation proposed is a freestanding Victorian arch as shown on the submitted drawings;

House Plan dwg.no. 005B 0221 Rev B dated 29/11/18/
House Elevation dwg.no. 006B 0221 Rev B dated 29/11/18/
Elevation drawing received on 29/11/2018.

SECOND SCHEDULE

5 Hobbs Court, The Potting Barn, Bilsham Road, Yapton BN18 0JY

The proposal is to install a freestanding Victorian arch 2.3 metres by 1.6 metres with a height of 2.00 metres.



Based on the Ordnance Survey mapping with permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Arun District Council 100018487.