

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development**REF NO:** Y/96/21/CLP**LOCATION:** 15 Kings Close
Yapton
BN18 0EX**PROPOSAL:** Lawful development certificate for a proposed garden building.**DESCRIPTION OF APPLICATION**

This application seeks to erect an outbuilding within the curtilage of the dwelling house measuring approximately 3.2m in length by 3.2m in width with an overall height of 2.45m.

RELEVANT SITE HISTORY

Y/22/14/	Outline Application with some matters reserved for a proposed residential development of site with 1 x 4 bedroom house, 13 x 3 bedroom houses 3 x 2 bedroom houses & 1 x 2 bedroom flat over garages, incorporating parking & access to main road, via a redefined alignment of Kings Close & Highway improvement works at existing crossover.	App Cond with S106 14-11-14
Y/74/17/RES	Approval of reserved matters following outline consent Y/22/14/ for 1 No. 4 bed house, 13 No. 3 bed houses, 3 No. 2 bed houses & 1 No. 2 bed flat over garages incorporating parking & access to main road via redefined alignment of Kings Close & highway improvement works at existing crossover.	ApproveConditionally 06-04-18

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 dwelling house.

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 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 outbuilding complies with the conditions set out in Class E.

SITE BACKGROUND

Permission for the 15 Kings Close was granted under Y/74/17/RES which contains restrictive conditions. Condition 7 of that approval states;

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 or dormer windows) to the dwelling houses shall be constructed or buildings 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 and the National Planning Policy Framework.

The proposed outbuilding conflicts with condition 7 of Y/74/17/RES which has removed the properties Permitted Development Rights in relations to extensions and outbuildings and is therefore 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 12th July 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 not complying with the condition 7 set out in Y/74/17/RES.

FIRST SCHEDULE

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

The development is hereby refused under the following plans;

- Floor Plans
- East View, West View, North View and South View
- Layout Plan
- Location Plan

SECOND SCHEDULE

15 Kings Close, Yapton

EXTENT OF USE

Erection of an outbuilding within the curtilage of the dwelling house measuring approximately 3.2m in length by 3.2m in width with an overall height of 2.45m.

Y/96/21/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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