Development Management - Delegated Officer Report

Application Number: AWDM/1834/21 Recommendation – Approve

Site: 10 Hadlow Way, Lancing, BN15 9DE

Proposal: Application for Certificate of Lawfulness for proposed timber summer house/garden room with combined gymnasium for use incidental to the enjoyment of 10 Hadlow Way

Date of site visit: Assessment has also been assisted using the Applicants plan; Earthlight mapping; and Google 3D of the site

Neighbours checked: Y

Additional neighbour notifications: N

Site and Surroundings:

Hadlow Way is a cul-de-sac, and no. 10 is located on the close of the cul-de-sac, at its southern end. The site where the proposal is to be positioned is located to the rear of no.'s 21 & 23 Links Road. The site is within the ownership of no. 10 Hadlow Way, and access to it is from a bridge which has been positioned over the brook which runs between the properties.

The applicants have submitted an email from their solicitors dated 04.06.2020, regarding the bridge which states: - "*I have a reply from West Sussex County Council who have confirmed that as long as there is no structure such as a supporting post which is in the water no consent is required for you to build a bridge over the stream."*

A photocopy of the bridge has also been submitted which confirms that there is a linkage between no. 10 Hadlow Way and the rear of no.'s 21 & 23 Links Road

The application form confirms that the existing timber summer house/ garden room which is currently on the land will be knocked down and the rebuilding works will be further away from the mutual boundaries with Links Road.

The forms also confirm that the existing summer house has been enjoyed by the applicant for the past nine years.

The site is not within a Conservation Area and is not a Listed Building

Proposal:

A Certificate of Lawfulness is sought for a proposed detached building within the curtilage.

The structure will measure 9m wide x 6m deep on the south side and 5.1m deep on the north side x 3.9m high. (The roof will measure 9.4m wide x 6.4m deep)

Planning Assessment

Principle

The proposal will be viewed against the criteria of permitted development as laid out within The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Consideration

Schedule 2, Part 1, Development within the curtilage of a dwellinghouse.

Class E – buildings etc. incidental to the enjoyment of a dwellinghouse

Permitted development

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.

In this case, the proposal is for a summer house/garden room with gym. These uses are considered to be incidental to the enjoyment of the dwellinghouse. The applicant has advised that a toilet/shower is to be installed for use after the gym and this is also considered to be incidental. The key consideration is that it cannot contain accommodation that could be used as an independent living space (for example if an outbuilding was permanently laid out as a bedroom). That is not the case here.

The land is separated from the dwelling by the watercourse but it is tended as lawn and already contains a number of outbuildings. Case law indicates that such land can be described as being within the curtilage of 10 Hadlow Way.

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);

Analysis: None of the above apply

(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);

Analysis: The new building together with other structures on the land, would not exceed 50% of total area of the curtilage

(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;

Analysis: The new structure will not be forward etc. of the principal elevation of the original dwellinghouse.

(d) the building would have more than a single storey;

Analysis: The new structure will be 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;

Analysis: The structure will be a dual-pitched roof, and the height will be 3.9m therefore complies with (i);
the structure will be 2m from the north, south and west boundaries thereby it will comply with (ii);
(iii) will not apply in this case.

(f) the height of the eaves of the building would exceed 2.5 metres;

Analysis: The eaves will not exceed 2.5m

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;

Analysis: There are no listed buildings within the curtilage

(h) it would include the construction or provision of a verandah, balcony or raised platform;

Analysis: None of the above are shown on the application

(i) it relates to a dwelling or a microwave antenna; or

Analysis: None of the above apply

(j) the capacity of the container would exceed 3,500 litres.

Analysis: The proposal does not relate to a container

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.

Analysis: The site is not within any of the above designations

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.

Analysis: The site is not article 2(3) land.

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.

Analysis: The structure will be for the personal enjoyment of the occupants of the dwellinghouse.

Recommendation

Issue a Certificate of Lawfulness as the proposal falls within Class E permitted development.

Reason for Recommendation

The proposal constitutes ‘development’ as defined by Section 55 of the Town and Country Planning Act 1990, and is permitted by Schedule 2, Part 1, Class E, of Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Case Officer: Eve Hearsey Date: 21.12.2021

Authorised by: Peter Barnett Date: 22 December 2021