Expiry: 24/10

Development Control – Delegated Officer Report

Application Number: AWDM/1191/23	**Recommendation: Issue Certificate**

Site: 12 Sompting Avenue, Worthing

Proposal: **Application for Certificate of Lawfulness for conservatory to be used as proposed part time wellness workspace for massage and therapy.**

Date of site visit: 29/9

Neighbours checked: n/a

Additional neighbour notifications: n/a

Site and Surroundings

The site relates to a detached double fronted house on the south side of Sompting Avenue. The property is set off both side boundaries and there are detached houses either side. It backs onto Manor House Sports Ground. This is a predominantly residential area though opposite is Lancing Preparatory School.

This is not a conservation area and the house is not a listed building. There are no protected trees on the site.

A Certificate of Lawfulness is sought for the proposed use of the rear conservatory, south side of the house, to be used as a wellness workspace, massage and therapy, to visiting members of the public. A determination is sought as to whether planning permission is required.

The key features of the use would be as follows:

The therapy space would be confined to the conservatory. Clients could use the downstairs WC if necessary. The conservatory room has a floorspace of approximately 13 square metres with windows on three sides. The room contains: -

- Massage bench

- Bench accessories: covers, blankets (disposable), oils and waxes, bolster and head rest.

- cleaning items (clinell spray, wipes, sanitizer)

- sofa and chairs
- small lockable filing cabinet
- wall clock

- certificates for practising therapies on display framed
- stationery (record keeping, pens etc.)
- ceiling fan and electric heater/radiators
- curtains and blinds for room privacy

i. Access would be through the front door.

ii. The business address will remain primarily a residential property with operating hours making up a maximum of 36% weekly as follows:
Mondays 1000-1400 Max. no of clients = 4
Tuesdays 1000-1400 Max. no of clients = 4
Wednesdays 1000-1400 and bi-weekly 1600-1900 Max. no of clients = 7
Thursdays bi-weekly 1600-1900 Max. no of clients = 3
TOTAL MAX CLIENTS PER WEEK AVERAGE = 15 (over 4 weeks)

iii. Treatments on offer (all relevant qualifications and insurance can be evidenced):
o Massage
o Manual Lymphatic Drainage
o Corrective Exercise
o Emotional Freedom Technique
o Personal Training
o Nutrition Advice
o Lifestyle Coaching

iv. Clients will park on the property driveway with a maximum of 2 cars relating to this at any one time.

v. There will not be any external signage.

vi. No staff other than the owner and therapist, myself, will be on the property conducting business during the proposed hours. Other residents at the home are my daughters who will be in the private areas of the property during school holidays or unplanned days off school (i.e. illness).

vii. A dog and two cats live at the property and will be adequately secured away from clients during business hours. All clients will be informed of this before appointment times in case of any health and safety concerns.

Relevant Planning History:

03/00987 - Change of use of ground floor to provide children's day nursery for a maximum of 26 children aged from 0-5 years from 8am-6pm Monday-Friday with first floor owner's accommodation. Granted

Consultations: None.

Representations: N/A

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Planning Assessment

The determination of applications for Certificates of Lawfulness is restricted to consideration of the lawfulness of the proposal. Effectively, the issue for consideration is whether the proposal needs planning permission by means of an application, or, alternatively may be carried out without any such need because it is not development or is permitted development or is *de minimis* or is not a material change of use or is immune from enforcement and so has achieved lawfulness. The, otherwise, planning merits or de-merits of a proposal are outside of the scope of the determination.

The relevant test for such an application is whether, on the balance of probabilities, the applicant has proven the proposed use is lawful. The onus is upon the applicant to demonstrate proof.

The main issue appears to be whether the current property is a C3 Dwellinghouse use as set out in the Use Classes Order 1987 in itself and secondly if use of the property for the stated wellness business and on the basis of the terms set out in the application and other information received remains a C3 Dwellinghouse use as set out in the Use Classes Order 1987 as Amended.

Planning Practice Guidance 2014 states:

Do I need planning permission to home work or run a business from home?

Planning permission will not normally be required to home work or run a business from home, provided that a dwelling house remains a private residence first and business second (or in planning terms, provided that a business does not result in a material change of use of a property so that it is no longer a single dwelling house). A local planning authority is responsible for deciding whether planning permission is required and will determine this on the basis of individual facts. Issues which they may consider include whether home working or a business leads to notable increases in traffic, disturbance to neighbours, abnormal noise or smells or the need for any major structural changes or major renovations.

Planning Assessment

The property is a C3 family house. There are no physical works required to the property to carry out the use. The business use would occupy only a small proportion of this detached house (13 square metres) within the conservatory which is an integral part of the house. It would be accessed through the front door with access to a WC off the hall area if required. In terms of the furniture and equipment required within the room, this would still allow its use as a conservatory outside of business hours if required. The vast majority of the property would continue to be used for residential purposes.

Although the business would operate 3-4 days per week, hours would be limited to Monday to Wednesday 10am to 2pm, with occasional Wednesday and Thursday evening appointments between 4pm and 7pm, with no Friday or weekend appointments. A maximum of 7 appointments per day could occur scheduled at hourly intervals to avoid overlap with employment limited to the applicant only.

Parking would be available on the driveway or on street and given the duration and intervals of appointments and daytime hours of operation, the impact on neighbouring occupiers in terms of traffic and parking would be limited.

As such, it is not considered that any material change to the character of the dwellinghouse will result from this proposed use. A Certificate of lawfulness should accordingly be issued.

Recommendation

ISSUE CERTIFICATE for the reason:-

It has been accepted on the balance of probability that the use of the rear conservatory at 12 Sompting Avenue as a wellness workspace for massage and therapy is ancillary to the use of the property as a dwelling under Class C3 of The Use Classes Order 1987 as Amended 1990.

This certificate relates only to the use of the rear conservatory at 12 Sompting Avenue as identified and detailed on the revised floor plan and supporting statement received 17/10/23 and in the applicant's email dated 2/10/23 and the precise use referred to below:

The wellness workspace would be confined to the rear conservatory. The room has a floorspace of approximately 13 square metres and windows on 5 angled sides. The room would contain a massage bench, bench accessories: covers, blankets (disposable), oils and waxes, bolster and head rest, cleaning items (clinell spray, wipes, sanitizer), sofa and chairs, small lockable filing cabinet, wall clock, certificates for practising therapies on display framed, stationery (record keeping, pens etc.), ceiling fan and electric heater/radiators, curtains and blinds for room privacy.

 The business address will remain primarily a residential property with operating hours making up a maximum of 36% weekly as follows:
Mondays 1000-1400 Max. no of clients = 4
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 Treatments on offer (all relevant qualifications and insurance can be evidenced):
o Massage
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o Corrective Exercise
o Emotional Freedom Technique

o Personal Training
o Nutrition Advice
o Lifestyle Coaching

 Clients will park on the property driveway with a maximum of 2 cars relating to this at any one time.

 There will not be any external signage. Clients will enter the massage studio via the main property entrance.

 No staff other than the owner and therapist, myself, will be on the property conducting business during the proposed hours. Other residents at the home are my daughters who will be in the private areas of the property during school holidays or unplanned days off school (i.e. illness).

 A dog and two cats live at the property and will be adequately secured away from clients during business hours. All clients will be informed of this before appointment times in case of any health and safety concerns.

Is recommendation contrary to letter(s) of representation? N

Case Officer: MOK Date: 18.10.23

Authorised by: Jo Morin Date: 19.10.2023