Expiry Date – 4/1

Development Control – Delegated Officer Report

Application Number: AWDM/1481/17 **Recommendation –** Issue Certificate

Site: **21 Grand Avenue, Lancing**

Proposal: **Application for Certificate of Lawfulness for proposed change of use of first floor bedroom to laser beauty treatment room.**

Neighbours checked: Y

Additional neighbour notifications: N

Date of Site Visit: 9/8/17

Site and Surroundings

This application relates to a semi detached inter war family house on the west side of Grand Avenue just south of the junction with Fourth Avenue. The property has been extended to the rear ground floor and into the loft. It has a south side rear garden access and off street parking for 2/3 cars.

Proposal

A Certificate of Lawfulness is sought to use the smallest first floor bedroom as a beauty treatment room for laser treatments.

The application is accompanied by a site plan, a 1:50 floorplan of the first floor which shows the smallest front bedroom identified for the new business and a photograph of the front of the house. It is accompanied by supporting statement as follows:

Further Details for the Proposed Laser Beauty Treatment Room at 21 Grand Avenue, Lancing

Description of the proposed room

The room is currently a light and bright spare room in our home on the first floor. It faces the front of the property with an opening window also facing the front. Floor dimensions are 2.4m x 2.3m. No building work or structural changes are needed.

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PLANNING SERVICES

PLAN	AWDM/ 1481/17
DATE VALID	- 9 NOV 2017

Hours of use you and how many clients per day will attend?

The hours of use will be Monday to Friday 10am-3pm. I plan to see up to 3 clients per day.

Will more than one client be on site at any time?

Only one client will be on site at any one time. I will book appointments with at least a 30 min gap between to allow my client to leave and for me to prepare for the next treatment before my next client arrives.

Equipment required

The room will contain a beauty couch, desk area and a compact laser machine capable of performing laser hair removal and skin rejuvenation treatments.

Where will clients park?

There is space on our driveway for two cars. The house is in central Lancing so easy to get to by train, bus or walking if client is local. The avenues area has plenty of on street parking if needed. Grand Avenue is a fairly busy residential road with shops at the southerly end.

Further Details for the Proposed Laser Beauty Treatment Room at 21 Grand Avenue, Lancing

Will you be the only laser therapist working or will you employ anybody else or sub-let the space?

I will be the only person working and will not be sub-letting the space.

Will you advertise the business on site or elsewhere?

I will not be advertising on site. I do plan to have a website but I would rather be advertised through word of mouth via happy clients.

Will the space be used for other typical domestic purposes when not being used to conduct business?

When I am not seeing clients yes it can be used as a quiet room for my children to do homework or for me to study as I plan to have a desk area in there.

Will your home no longer be used mainly as a private residence? No

Will your business result in a marked rise in traffic or people calling? No

Will your business involve any activities unusual in a residential area? No

Will your business disturb your neighbours at unreasonable hours or create other forms of nuisance such as noise or smells? No

Relevant Planning History

AWDM/0569/17 - Application for Certificate of Lawfulness for proposed business use as a Laser Beauty Treatment Room to encompass hair removal and skin rejuvenation. Withdrawn 16.8.17

Planning records for roof extensions and ground floor extensions exist.

Consultations

None received.

Representations

None undertaken.

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.

In other words; does the host property enjoy C3 use rights and secondly would a material change of use occur such that the business use is not ancillary/incidental to the residential use and residential is no longer the primary use?

In making such a judgement, Government guidance in Circular 03/2005 advises:

78. A fact and degree approach is also needed in determining when the carrying on of business activities in a dwelling house requires planning permission. The amended Order does not alter the current position: planning permission for working at home is not usually needed where the use of part of a dwelling house for business purposes does not change the overall character of its use as a residence. The Step-By-Step Guide to Planning Permission for Small Business contains more detailed advice about the planning issues to consider in relation to working from home.

The Planning Portal advises on working from home as follows:

'If you are considering setting up a home office, then it should be both functional and comfortable.

Many homeowners choose to convert an existing room, such as a box room, loft room or garage into a habitable space. If your plans are for altering an existing space in your home, consider if there's enough natural light, space for a desk, chair and other office furniture as well as internet access and a telephone line. Alternatively, if you do not have the space to free up inside, you can opt to add an outbuilding to create a garden office.

Planning Permission

You do not necessarily need planning permission to work from home. The key test is whether the overall character of the dwelling will change as a result of the business.

If the answer to any of the following questions is 'yes', then permission will probably be needed:

- *Will your home no longer be used mainly as a private residence?*
- *Will your business result in a marked rise in traffic or people calling?*
- *Will your business involve any activities unusual in a residential area?*
- *Will your business disturb your neighbours at unreasonable hours or create other forms of nuisance such as noise or smells?*

Whatever business you carry out from your home, whether it involves using part of it as a bed-sit or for 'bed and breakfast' accommodation, using a room as your personal office, providing a childminding service, for hairdressing, dressmaking or music teaching, or using buildings in the garden for repairing cars or storing goods connected with a business - the key test is: is it still mainly a home or has it become business premises?

The Step-By-Step Guide to Planning Permission for Small Business 2006 (Planning Permission: A Guide for Business) indicates;

WORKING FROM HOME

You do not necessarily need planning permission to work from home. The key test is whether the overall character of the dwelling will change as a result of the business. If the answer to any of the following questions is 'yes', then permission will probably be needed: ***u***

Will your home no longer be used mainly as a private residence?

Will your business result in a marked rise in traffic or people calling?

u *Will your business involve any activities unusual in a residential area?*

u *Will your business disturb your neighbours at unreasonable hours or create other forms of nuisance such as noise or smells?*

Assessment.

From observation on site, discussion with the applicant and the planning history the property is clearly in itself a C3 dwellinghouse use.

It is clear that the proposed business use would occupy a very small area both proportionally and in actuality. The bedroom to be used is the smallest of four bedrooms in the house and has a floor area of only 5.5 square metres. The proposed treatment room is accessible only from within the house itself. It will contain only a few items of bespoke furniture and very limited equipment/materials characteristic of the business, including a laser hair removal machine. The applicant advises that it can and will be used by family members at other times for use as a home office. The vast majority of the property will continue to be used for residential purposes.

The proposed business is of a modest scale in terms of numbers of customers; with an average of 3 clients per day; and working hours are limited to Monday to Friday between 10am and 3pm only. Only the applicant will work from the site.

There would be no external evidence of the business by means of signage, plant or equipment and no internal works necessary to facilitate the business use.

The impact of clients on the locality and neighbours in terms of traffic and parking would be limited due to the numbers and spread of customers over the working day and week, and the character of the area itself. The applicant possesses a drive and there is scope for clients to park off street. Alternatively on-street parking was available at the time of the site visit and Grand Avenue is not a particularly quiet road, being on a bus route and close to a local shopping parade.

The previous Certificate application, which was withdrawn, was to use a garden outbuilding for the same business purposes but over a longer day and seeing up to 6 people per day. The advice of Environmental Health at the time was that the laser hair removal machine was unlikely to disturb neighbours.

On balance it is considered that the proposed business use will not result in a material change to the character of the dwellinghouse or the area. A Certificate of Lawfulness should accordingly be issued.

RECOMMENDATION: Issue Certificate

REASONS FOR RECOMMENDATION:

It has been accepted that on the balance of probability the use of the small first floor front bedroom of 21 Grand Avenue, Lancing as a laser beauty treatment room 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 small first floor front bedroom of 21 Grand Avenue Lancing as annotated on the submitted floorplan and the site as outlined in red in the submitted site plan and the precise use referred to below which represents the state of affairs at the date of the application:-

a) The laser beauty treatment room is confined to the small first floor front bedroom. The room has one window facing the front and is linked internally to the landing area. Access is exclusively from the front door of the house and up the stairs to the room itself. The room is square and small and the applicant states it has a floorspace of 5.5 sq metres. The room will contain a treatment couch, desk, chair and laser machine. It might be used as a family study too.

b) Hours of operation are Monday to Friday 10am to 3pm.

c) Up to 3 clients per day will be seen. One client at a time with a minimum 30 minutes between clients.

d) The services provided are limited to laser hair removal and skin rejuvenation treatments.

e) The business is run by the applicant who lives at the house and no other staff are employed. The applicant will not sub-let the space.

f) The business is by appointment only.

g) The business is not advertised at the house. Business is by word of mouth or website.

h) Clients park in the drive of the property or on street.

Accordingly, use of the small front first floor bedroom of 21 Grand Avenue Lancing is incidental to use of the dwellinghouse within Class C3(a) of The Town and Country Planning (Use Classes) Order 1987 (as amended).

The use is not liable to enforcement action under Section 172 of the Act. However, if any further development/intensification and change in circumstance is carried out subsequent to the issue of this certificate, it may be liable to formal enforcement action by the Local Planning Authority.

This certificate only makes lawful the uses referred to above and does not provide immunity from enforcement for any other activity.

Is recommendation contrary to any representations? N

Case Officer signed:	MOK	Date: 12.12.17
Authorised and signed by:	PB	Date: 12/12/17