From: David Jones <david.jones@adur-worthing.gov.uk> on behalf of David Jones
Sent: 06 July 2023 11:56
To: Jason Albon
Cc: Jo Morin
Subject: Re: Acknowledgment of Instructions - AWDM/0686/23 - Application for Certificate of Lawful Development

Dear Jason

I have reviewed the application for a CLEUD in respect of the outbuilding at 50 Falmer Avenue and the wording of Schedule 2, Part 1, Class E of the GPDO which covers buildings required for a purpose incidental to the enjoyment of a dwellinghouse.

Having done so, my advice is that this falls within permitted development and so the CLEUD should be granted. Given the outbuilding's use as a gym, I feel that this falls within what is permitted under Class E as the use is for a purpose incidental to the enjoyment of a dwellinghouse.

The shower and toilet within the outbuilding should be considered in the context of what the outbuilding is being used for, and I feel it is reasonable to conclude that someone may want to take a shower after using the gym and before going back into the main house and obviously they may want to use the toilet at any point. The drawings submitted also show that the shower may be used in relation to the hot tub which is outside but covered by the flat roof of the outbuilding and again, this makes sense in terms of its use for a purpose incidental to the enjoyment of the dwellinghouse.

Assuming that the measurements in the drawings are accurate to the actual build, and I have noted from the application form that an enforcement officer has apparently inspected the outbuilding and was satisfied with it, it seems that the outbuilding does not exceed 2.5m (it is exactly 2.5m tall) and so it does not fall outside what is permitted under Class E.1(e)(ii).

Whenever an application for a CLEUD is submitted, it must be sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability. I feel that this application meets that test. I would advise you to make it clear on the CLEUD exactly what use you say is lawful. Although the drawings make it very clear that the outbuilding is being used as a gym, the application form makes no mention of the word "gym" and refers to the existing use as " Garden outbuilding/cabin". If you want to certify the outbuilding as lawful on the basis of its use as a garden outbuilding that is fine and it's not necessary to limit its use to a gym. Calling it a garden outbuilding would make it sufficiently clear in my opinion that we are not certifying the lawful use of the outbuilding as a dwelling which is not permitted under Class E.1(i) and so we could take enforcement action should evidence ever arise that it is being used as such, which is a possible concern given the installation of the shower and toilet.

I hope that helps and let me know if you have any questions.

Kind regards

David

On Thu, 6 Jul 2023 at 10:48, Jo Morin <jo.morin@adur-worthing.gov.uk> wrote:

> Good Morning David

Further to Nicola's email below. The planning case officer for this Certificate of Lawfulness application is Jason Albon. I completed the legal instruction on Jason's behalf as he is currently on annual leave (returning next Thurs 13th July). Please could you direct all email communication and any requests for further information to Jason and copy me in as his team leader. Thank you.

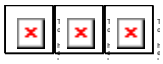
Kind regards

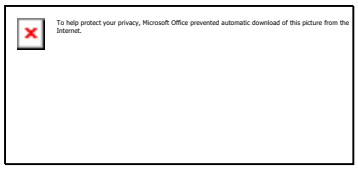
On Thu, 6 Jul 2023 at 10:02, Nicola Howard <nicola.howard@adur-worthing.gov.uk> wrote:

> 015801-dj-we/00929368
>
> Dear Jo
>
> Thank you for your request for advice/action on this matter.
>
> I confirm that the Legal Officer to whom this matter has been allocated is David Jones. For information about David Jones's line manager, hours of work, and role within Legal Services go to the Meet the Legal Services Team page on the intranet. Our intranet page also has a link to About Legal Services where our service level arrangements are laid out.
>
> If you have any problem with the service provided, you should initially approach the Legal Officer assigned to this matter or their supervisor.
>
> We have arrangements to ensure continuity of cover in the event of absence from the office due to sickness, holiday or other engagements.
>
> Regards
>
> Nicky Howard
>
> Administrative Assistant
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> Tel: 01903 221030
>
> Email: nicola.howard@adur-worthing.gov.uk

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Jo Morin
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