
Site Address:	56B Bracklesham Road, Hayling Island, PO11 9SJ		
Proposal:	Application for Lawful Development Certificate relating to installation of decking, retaining wall and spa pool.		
Application No:	APP/16/00733	Expiry Date:	07/09/2016
Applicant:	Mr & Mrs McDermott		
Agent:	Mr Hamblin	Case Officer:	Emma Chisnall
	H J Concepts Ltd		
Ward:	Hayling East		

Recommendation: **GRANT A CERTIFICATE OF LAWFUL USE**

1 Site Description

- 1.1 56B Bracklesham Road is located on the south side of Bracklesham Road towards the eastern end of the road, close to the foreshore. It is sited between other 3 storey dwellings but immediately to the west there is a large side garden to No 56B. The character of the area comprises detached dwellings set within narrow plots and the application site benefits from a relatively long garden area but it has a steep ditch running east-west through the middle of the garden caused by a watercourse.
- 1.2 The dwelling is white rendered with grey cladding to the eaves line of the shallow mono-pitch roof giving a modern appearance. The rear garden has 1.8m timber fencing around the curtilage boundary. The front amenity space is adequate in size and is hard-surfaced for the provision of parking three cars.

2 Planning History

APP/16/00369 - Replacement of existing timber two storey rear balcony, with steel frame glazed balcony, external spiral stairs and external rear raised deck area including side access deck., PERM,12/05/2016

3 Proposal

- 3.1 Application for Lawful Development Certificate relating to installation of decking, retaining wall and spa pool. The decking proposed to the west side of No 56B will stretch out to the boundary of No 56 and have a depth of 5.6m with a height of 0.3m. The spa and pool will be 5.8m deep by 3m wide with a matching height to that of the decking and the wall which is referred to as 'retained' refers to the gabion walls along the area of the steps which consists of a wire mesh filled with permeable stones. The application is to establish whether the proposed works are considered to be classed as permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015.

4 Legislation

- 4.1 Town and Country Planning (General Permitted Development) (England) (Order) 2015

5 Statutory and Non Statutory Consultations

Chichester Harbour Conservancy Comment:

Recommendation: That the application be granted, because the permitted development rights relied upon by the applicant do apply.

Reasoning: Following a site visit made 9.8.16, regard has been had to Article 2 (3) of the Town and Country Planning (General Permitted Development Order 2015) (as amended). Schedule 1, Part 1, 1(b) makes it clear that Article 2 (3) land includes land designated as an Area of outstanding Natural Beauty.

The proposals Map (inset Map 14) to the Havant Borough Core Strategy makes it clear that the application site is outside, but immediately adjoining the Chichester Harbour AONB.

Class A (k) and E (a), within Schedule 2 to the Order, sets out the criteria to be observed for the decking and spa pool respectively to be permitted development it is my interpretation that the development shown on the HJ Concepts Ltd drawing 16-1103-P05 would be permitted development as set out in the Order.

Naturally, the Local Planning Authority will come to its own conclusion as to how the Order is to be interpreted.

Officers comments: This will be discussed in Section 7 'Planning Considerations'.

6 Community Involvement

The proposal is for a Certificate of Lawfulness for a propose development and publicity is not required as this is a legal determination and not a planning merits application.

7 Planning Considerations

- 7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:
- (i) Whether the development would require planing permission.
- 7.2 The proposal has been assessed against the 'Permitted Development' allowances in the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 7.3 The proposed alterations will be considered against Schedule 2, Part 1, Class A and Class F of the Town and Country Planning (General Permitted Development) Order 2015 and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015 . The permitted development Classes are written as to allow for all types of development described within the title of the Class unless the development would fall foul of the listed criteria. Therefore unless it is clear that a proposed development would fail to comply with the relevant criteria contained within a Class, the development should be held to constitute permitted development i.e. the default position is permitted development, not the need for planning permission
- 7.4 Within the application four proposals have been identified which will fall into different sections of the Town and Country Planning (General Permitted Development) (England) Order 2015. These are listed below alongside the criteria which must be followed in order to ensure development is permitted without the requirement for formal planning permission.

- 7.5 **Schedule 2, Part 1, Class A:** Decking at the rear of the dwelling and the proposed increased height of decking over the watercourse in the middle of the rear garden at No 56B.

Development is not permitted if:

A1 B- As a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage. This allowance is not exceeded.

A1 K-It would consist of or include (i) the provision of a verandah, balcony or raised platform.

A raised platform within the General Permitted Development Order 2015 is described as 'A raised platform if any platform with a height greater than 0.3m and will include roof terraces'. The plans submitted for the proposed works to No 56B confirm the proposed height for the area of decking will not exceed 0.3m and therefore can be carried out without planning permission. It is worth noting for the report that the ground level proposed for the lower decking covering the watercourse has been taken from the fence posts in the ground and not the base of the watercourse. As such, the development is acceptable and meets the criteria necessary.

The raised platform has also been assessed by the Council's solicitor who has concluded planning permission is not required.

- 7.6 **Schedule 2, Part 1, Class E:** Spa pool within the decking positioned at the rear of the dwelling.

Development is not permitted if:

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). This allowance is not exceeded.

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. The works are proposed in the rear garden.

E- The height of the building, enclosure or container would exceed 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 3 metres in any other case. These allowances are not exceeded.

G- The building, enclosure, pool or container would be situated within the curtilage of a listed building. The building is not listed.

H- it would include the construction or provision of a verandah, balcony or raised platform. Please see point 7.5 in regards to the definition of a raised platform. The height limit for a raised platform is not exceeded.

J- The capacity of the container would exceed 3,500 litres.

E.1 In the case of any land within the curtilage of the dwellinghouse which is within an area of outstanding natural beauty, the broads, a national park or a world heritage site. The site is adjacent to but outside of the Chichester Harbour AONB.

- 7.7 **Schedule 2, Part 2, Class A:** The installation of gabion walls to surround the steps to and from the central decking position above the watercourse.

Development is not permitted if:

B- The height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level. The gabion walls do not exceed 2m in height.

- 7.8 A search of the planning history has not revealed conditions that restrict 'Permitted Development' rights, nor is the dwelling subject to an Article 4 direction, within an area of outstanding natural beauty, the broads, a national park or a world heritage site.
- 7.9 It is considered that the proposal would comply with the criteria and would therefore appear to constitute permitted development in accordance with the Regulations.

8 Conclusion

The proposed development falls within permitted development regulations as set out in Schedule 2, Part 1, Class A and Class E and Schedule 2, Part 2 Class A of the Town and Country Planning (General Permitted Development) Order 2015 so therefore I would recommend that this proposal would not require planning permission and a certificate of lawful development can be granted.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/16/00733 as follows:

Havant Borough Council, as Local Planning Authority, certifies that on 13th July 2016 the development described in the First Schedule to this certificate in respect of land described in the Second Schedule and edged in red on submitted plan 'Site Plan' Drawing No 16-1103-P05 1:500 is lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason:

The proposed installation of decking, retaining wall and spa pool at 56B Bracklesham Road, Hayling Island is permitted development by virtue of Schedule 2, Part 1, Classes A and E and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.

First Schedule:

This certificate relates to the following development:

Proposed installation of decking, retaining wall and spa pool at the rear of the dwelling as shown on submitted drawings: Existing and Proposed Plans and Elevations Drawing No 16-1103-P05 received 13th July 2016.

Second Schedule:

This certificate relates to land at 56B Bracklesham Road, Hayling Island, PO11 9SJ, as shown edged red on the submitted 1:500 Site Plan.