
Site Address: 1 Bridge Road, Emsworth, PO10 7DT
Proposal: Application for Certificate of Lawfulness relating to the erection of a bridge over the stream to enable improved access to rear part of garden and erection of new greenhouse in rear section of garden.
Application No: APP/13/00778 Expiry Date: 03/10/2013
Applicant: Mr & Mrs Chapman Team: Team 2
Agent: Mr Farrer Case Officer: Rachael McMurray
MF Designs Ltd
Ward: Emsworth

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

1 Site Description

The application site comprises a detached, two-storey dwelling of brick and tile construction. The entrance is located on the side / south elevation and faces onto the driveway and detached garage. To the south of the site is the Bridge Street public car park and the property separates itself from this by a 2m high wall.

To the rear of the site there is a rear garden which is partly paved, partly laid to lawn. Along the rear section of this garden runs a stream (West Brook) which also runs along the east boundary of the car park to the south of the site. To the rear of this garden and stream there is also a separate 'L' shape plot of land which is also in the ownership of the applicant. This section of garden is currently accessed by small wooden step over bridge. This rear section of garden is enclosed by a 2m high brick wall/trellis/hedge screening along the east boundary, a 2.5m high hedge screening along the north boundary and 2.5m high hedge screening along the south boundary.

2 Planning History

None relevant to this application.

3 Proposal

- 3.1 Section 192 application for a Lawful Development Certificate to establish whether the development proposals outline in section 3.2 below, are considered to be classed as permitted development under the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008, which is an amendment to the Town and Country Planning (General Permitted Development) Order 1995.
- 3.2 A - erection of a bridge over the stream within the garden to enable improved access to rear part of the garden
B - erection of a greenhouse within the rear section of the garden

4 Legislation

- 4.1 Town and Country Planning (General Permitted Development) (Amendment) (England) Order No.2 brought into effect on 1 October 2008, which is an amendment to the Town and Country Planning (General Permitted Development) Order 1995.

5 Statutory and Non Statutory Consultations

Hampshire Biodiversity Information Centre:

There is a Site of Important Nature Conservation (SINC) located 15m to the south of the site which includes a section of the stream which runs through the application site. No risks to any possible nearby protected species have been identified by the Biodiversity team.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 15

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 1

One objection was received which raised the following points:

i. Erection of a permanent access to the rear section of the garden would allow a future resident to start building on the land adjacent to my property (26B Victoria Road) and this would cause a security problem.

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 planning permission is required

7.2 Under the definition of 'development', a bridge is classified as a structure which requires planning permission unless it falls within the tolerances laid out in the Town and Country Planning (General Permitted Development) Order 1995 (as amended). As the structure would be separate from the main dwelling, it should, along with the proposed greenhouse, be considered against Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). 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.

7.3 Class E states that development is not permitted if:-

a) 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);

(b) 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;

(c) the building would have more than one storey;

(d) 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;

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

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

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

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

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

7.5 The bridge structure and green house as listed in Section 3 (A and B) would not:

a) exceed 50% of the total area of the curtilage

b) be situated on land forward of wall forming the principal elevation of the original dwellinghouse

c) have more than one storey

d) exceed 2.5m in height within 2m of the boundary

e) be within the curtilage of a listed building

f) include the construction or provision of a veranda, balcony or raised platform

g) relate to a microwave antenna

h) include a container.

In light of the above criteria, the development would therefore appear to constitute permitted development in accordance with the legislation

8 **Conclusion**

- 8.1 The proposed development falls within permitted development tolerances as set out in Part 1, Class E of the The Town and Country Planning (General Permitted Development) Order 2008 (As Amended) and as such would not require planning permission.
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9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to grant a Certificate of Lawful Development for application APP/13/00778 for the following reasons:

Havant Borough Council, as Local Planning Authority, certifies that on 27 September 2013 the development described in the First Schedule to this certificate in respect of land described in the Second Schedule and edged in red on the plan attached to this certificate would be lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason:

The proposed bridge and green house within the curtilage of 1 Bridge Road, Emsworth are permitted development by virtue of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 as Amended by the No. 2(England) Order 2008.

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed sections, elevations and block plans - DN: P_01B

Proposed site plan - DN: P_02

Location Plan and existing block plan - DN: 100

Reason: - To ensure provision of a satisfactory development.