

Section '4' - Applications recommended for REFUSAL or DISAPPROVAL OF DETAILS

Application No : 19/00723/PLUD

**Ward:
Petts Wood And Knoll**

**Address : 80 Crescent Drive Petts Wood Objections: No
Orpington BR5 1BD**

OS Grid Ref: E: 544238 N: 167134

Applicant : Mr Terence Willis

Description of Development:

Erection of detached outbuilding together with hard standings
LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED)

Key designations:

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Smoke Control SCA 8

Proposal

The application seeks a lawful development certificate for a detached outbuilding to be used as a garage, workshop and store with a toilet. The building would measure 11.0m in width and 6.0m in depth. The structure would have a dual pitched roof which measures 4.0m in height at its maximum pitching down to 2.5m at the eaves.

Location

The application site comprises a semi-detached dwelling on the corner of Crescent Drive and Shepperton Road, Petts Wood. The property is not listed and does not lie within any area of special designation.

Consultations

Nearby owners/occupiers were notified of the application and no representations were received.

Planning Considerations

The application requires the Council to consider whether the proposal falls within the parameters of permitted development under Class E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and specifically whether any limitations/conditions of the Order are infringed.

Planning History

13/00978/FULL6 - Part one/two storey side and rear extension and detached garage to rear - Application Permitted.

13/02947/FULL1 - Erection of detached single storey dwelling with accommodation within roofspace and access onto Shepperton Road - Application Refused.

13/03099/FULL6 - Part one/two storey side and rear extension (amendment to planning ref: 13/00978 to amend the ground floor element) - Application Permitted.

13/03742/FULL6 - First floor rear extensions to Nos. 78 and 80 Crescent Drive - Application Permitted.

13/04265/FULL1 - Erection of a detached two storey three bedroom dwelling on land rear of 78-80 Crescent Drive with vehicular access onto Shepperton Road - Application Refused.

14/00022/FULL6 - Extension of existing detached garage - Application Permitted.

14/03044/FULL1 - Erection of a detached two storey three bedroom dwelling on land rear of 78-80 Crescent Drive with vehicular access onto Shepperton Road - Application Refused/Appeal Dismissed.

14/04874/FULL6 - Boundary wall and gates with maximum height of 2.3m fronting Shepperton Road - Application Permitted.

16/02518/FULL6 - Front boundary wall with piers and railings - Application Refused.

16/02648/FULL1 - Erection of a detached single storey three bedroom dwelling on land rear of 76-80 Crescent Drive with vehicular access onto Shepperton Road - Application Refused/Appeal Dismissed.

17/04534/FULL1 - Erection of a detached single storey three bedroom dwelling on land rear of 76-80 Crescent Drive with vehicular access onto Shepperton Road - Application Refused.

18/00805/OUT - Erection of detached bungalow (Outline Application) - Application Refused/Appeal Dismissed.

18/05257/PLUD - Erection of a single storey, detached outbuilding to use as a garage and workshop/store together with hardstanding and vehicular access
LAWFUL DEVELOPMENT CERTIFICATE (PROPOSED) - Proposed use/development is not lawful.

Conclusions

Class E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 relates to the provision within the

curtilage of the dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure.

In assessing the lawfulness of the proposal there are two key considerations; whether the proposed physical dimensions and siting of the building would comply with the criteria of Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015; and whether the proposed building would be required for purposes incidental to the enjoyment of the dwellinghouse.

Under Class E the following criteria have been satisfied:

- (a) the property at No.80 Crescent Drive was originally constructed as a dwellinghouse.
- (b) the ground area of the building and other extensions to the property does not exceed 50% of the residential curtilage.
- (c) the building would not be situated on land forward of the front elevation of the dwelling.
- (d) the building would be single storey only.
- (e) the building would not fall within 2m of the boundaries, it would have a dual pitched roof, and it would not exceed 4m in height.
- (f) the height of the eaves of the building would not exceed 2.5m.
- (g) the building would not lie within the curtilage of a listed building.
- (h) no veranda, balcony or raised platform are proposed.
- (i) the building would not be used as a dwelling.
- (j) the proposals do not include a container.

In establishing whether the proposed building would be required for purposes incidental to the enjoyment of the dwellinghouse there are two main points that should be established. Firstly, whether the use of the outbuilding, in the context of the whole planning unit, is intended to be and would remain incidental or subordinate to the main use of the property as a dwellinghouse, and secondly, whether the proposed outbuilding is reasonably required in order to accommodate that use.

The building would have a GIA of approximately 57m² and is proposed to be used as a garage, workshop and store with a toilet. The relative size of the proposed building is an important consideration in assessing whether the proposal would provide incidental accommodation. However, the large size of the building proposed does not in itself mean that the outbuilding does not fall within the parameters of Class E. It is also a matter of fact and degree as to whether the proposed facilities are incidental to the enjoyment of the dwelling house.

Caselaw arising from *Emin v SSE & Mid Sussex DC* [1989] established that while the phrase 'incidental to the enjoyment of the dwellinghouse' should not be interpreted on the unrestrained whim of the householder there should also be some sense of reasonableness in the circumstances of the case. It is recognised that it can be reasonable for a garage, workshop and store to be considered an incidental use, especially if there is not sufficient space within the host property to

accommodate them. The main question therefore is whether the size of the proposed outbuilding would be reasonably required to accommodate these uses.

The provision of such a large outbuilding for the proposed use may be preferred by the applicant, but it is necessary to consider whether the proposed accommodation would be reasonably required, leaving aside the personal preference of the applicant. It is for the applicant to demonstrate that a building of the proposed size is reasonably required, and that it has been designed with incidental uses in mind.

The applicant has provided a short statement along with photographs which sets out that the owner has a number of leisure interests which include DIY, cycling and keeping fit. The outbuilding would therefore be used, in part, to accommodate the equipment needed for these activities. The statement goes on to state that the section to be used as a garage will accommodate the family's car as well as the bicycles and gym equipment. The host dwelling currently benefits from off street parking and a detached garage. The garage sits to the rear of the host dwelling and has a GIA of approximately 30m². It is noted from the site visit that the garage is currently used to accommodate the tools and equipment used by the applicant in the course of their daily work. Taking into account the size of the existing garage and its current use it is not considered that the applicant has demonstrated that the additional outbuilding would be reasonably required or that it has been designed with incidental uses in mind.

Taking the above into account it is considered that the proposal would not be incidental or subordinate to the main use of the property as a dwellinghouse, and that it has not been adequately demonstrated that the size of the outbuilding and floorspace proposed would be reasonably required.

The proposed development would not comply with the provisions of Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

RECOMMENDATION: CERTIFICATE BE REFUSED

For the following reason:

The proposed detached outbuilding, as submitted, would not constitute permitted development under Class E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.