

Section '3' - Applications recommended for PERMISSION, APPROVAL or CONSENT

Application No : 19/02944/PLUD

Ward:
Petts Wood And Knoll

Address : 80 Crescent Drive Petts Wood
Orpington BR5 1BD

Objections: No

OS Grid Ref: E: 544238 N: 167134

Applicant : Mr Terence Willis

Description of Development:

Erection of detached outbuilding together with hardstanding (Proposed Lawful Development Certificate)

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 building to be used as a garage and tool shed/garden store along with hardstanding. The building would measure 12.0m in width and 3.2m in depth. The structure would have a dual pitched roof which measures 4.0m in height, pitching down to 2.4m.

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.

Concerns have been raised by local ward Councillors that the intended use of the outbuilding is not incidental to the use of the dwellinghouse.

Planning Considerations

The application requires the Council to consider whether the proposal falls within the parameters of permitted development under Classes E and F of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development)

(England) Order 2015 (as amended) 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 (Proposed Lawful Development Certificate) - Proposed use/development is not lawful.

Reason for Refusal:

Under this application the proposed building was indicated as having a GIA of approximately 66m². The building was proposed to be used as a garage, workshop and store with a toilet. It was considered that the applicant had failed to demonstrate why a building of this size was reasonably required especially given the existing detached garage.

19/00723/PLUD - Erection of detached outbuilding together with hard standings (Proposed Lawful Development Certificate) - Proposed use/development is not lawful.

Reason for Refusal:

Under this application the proposed building was indicated as having a GIA of approximately 57m². The building was proposed to be used as a garage, workshop and store with a toilet. Additional information was provided under this application to set out why the applicant required the building. Nonetheless it was considered that the applicant had failed to demonstrate why a building of this size was reasonably required especially given the existing detached garage.

Conclusions

The application requires the Council to consider whether the proposal falls within the parameters of permitted development under Classes E and F of Part 1 and Class B of Part 2.

Class E:

Class E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) 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.

Comparison with previously submitted applications:

This application is the third lawful development certificate to have been submitted for a building at the rear of No.80. As set out above under the planning history for the site the previous applications were primarily refused because the applicant had failed to demonstrate that the size of the buildings were reasonably required. Under this application the GIA of the proposed building is 30.7m² which is less

than half the size of the application refused under reference 18/05257/PLUD and just over half the size of the building refused under reference 19/00723/PLUD.

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 (this is also the case of the original curtilage of the property prior to the addition of the rear gardens of Nos.76 and 78).
- (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 4.0m 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, the purpose for the building and the incidental quality in relation to the enjoyment of the dwelling, and secondly, whether the building is genuinely and reasonably required in order to accommodate the use or activities and thus achieve that purpose.

The purpose for the building and the incidental quality:

The proposed outbuilding would be used as a garage with a tool shed/garden store. A floor layout has been provided to demonstrate how the space would be used and includes the location of hardstanding and where the access to the garage would be. A garage, tool shed and garden store could all be purposes incidental to the enjoyment of a dwellinghouse and are included in the list of examples set out within the 'Permitted development rights for householders Technical Guidance' document published in 2016 by the former Department for Communities and Local Government.

Whether the building is genuinely and reasonably required:

The second point set out above focuses on whether the building is genuinely and reasonably required to accommodate the use or activities. The internal dimensions of the garage are considered sufficient to house a motor vehicle and the size of the tool shed and garden store would not be excessive for its proposed use. It is noted that the size of the building is not decisive and that when assessing whether the building is genuinely and reasonably required for incidental purposes it is necessary to apply objective reasonableness in consideration of all the relevant facts and circumstances.

It is noted that there is an existing detached garage on site and the proposed plans indicate that this is to be fitted out as a home gym. This garage has a similar GIA to the proposed building and it was noted from the site visit that it is currently used to accommodate tools and other building equipment. Taking this into account it is considered that the size of the proposed building is reasonably required for its proposed use and that it would not be excessive. As such, it is considered that the building could be an incidental use to the main dwellinghouse as required by Class E.

The rear gardens of Nos.76-80 are currently separated from the host dwelling by a fence and the Council's records indicate that this has occurred since at least 2016. The proposed building would be situated within this enclosed area and consideration, along with a legal opinion, has been given as to whether this separation has led to the site no longer being part of the curtilage of No.80. It has been concluded that, on balance, because of the location of the proposed building and the period of time in which the area has been enclosed, the land to the rear of No.80 can still be considered to fall within its curtilage and therefore still benefit from the associated permitted development rights.

Class F:

Class F of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) provides permitted development rights within the curtilage of a house for the provision of a hard surfacing for any purpose incidental to the enjoyment of the dwellinghouse.

The proposed hard surfacing will enable vehicles to enter the rear of the property from Shepperton Road. This will enable the vehicles to access the garage section of the proposed building as set out above. It is considered that the proposed use of the building would be incidental to the enjoyment of the dwellinghouse. The hard surfacing would be used in conjunction with the building and therefore is also considered to be for a purpose incidental to the enjoyment of the dwellinghouse.

The conditions of Class F relate solely to instances where the hard surface will be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway. It is therefore considered that the hard surfacing falls within the requirements of Class F.

Part 2, Class B:

The proposed plans indicate that a vehicular access is to be provided facing onto Shepperton Road. Schedule 2, Part 2, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that the formation, laying out and construction of a means of access to a highway, which is not a trunk road or a classified road, is permitted where that access is required in connection with development permitted by any Class within the schedule. Shepperton Road is not a trunk, classified or principal road. It is therefore considered that the crossover falls within the requirements of Part 2, Class B however the applicant will need to obtain highways consent.

The proposed development would comply with the provisions of Classes E and F, Part 1 and Class B, Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

RECOMMENDATION: CERTIFICATE BE GRANTED

- 1 The proposal as submitted would constitute permitted development by virtue of Classes E and F of Part 1 and Class B of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.**