

## **DELEGATED APPLICATION REPORT**

**App Ref:** 191824/CLP

**Address:** 55 Barnsdale Road

**Proposal:** Erection of new outbuilding within the confines of the rear garage to house equipment for the continued rehabilitation of the client

**Case Officer:** Connie Davis

**Applicant:** Mr & Mrs A Rosser

**Date received (valid from):** 13/11/19

**Target Decision date:** 22/01/20

### **1. INTRODUCTION**

The application site is two storey terrace property located on the north-eastern side of Barnsdale Road. Properties are located on an incline with a pattern of properties such that dwellings are in 'pairs' and each pair is set further back from the road as the incline increases. Properties are uniform in their appearance, largely characterised by a flat roof porch, integral garage and green hanging tiles on the first floor front elevation.

The surrounding area is residential and the site is not listed, nor in a conservation area.

### **2. PROPOSAL AND SUPPORTING INFORMATION**

The proposal comprises of an outbuilding in the rear garden of the property. It would have a width of 5m and maximum height of 2.5m from the adjacent natural ground level.

A raised patio is shown on the proposed plans, however alterations to the patio were approved under application 190397.

#### **Plans Submitted:**

The applicant supplied the following drawings:

BA 0139 05 - Site & Location Plans

BA 0139 04 - Proposed Outbuilding

Received 14<sup>th</sup> November 2019

### **3. RELEVANT PLANNING HISTORY**

190397/HOU - Single storey front and rear extensions with reconfiguration of internal layout  
- Application Permitted

### **4. CONSULTATIONS**

No consultations were undertaken as it is not required for an application of this type.

### **5. RELEVANT PLANNING POLICY & GUIDANCE:**

Section 10 of the Planning and Compensation Act 1991 established a procedure that enables anyone who wishes to do so, to apply to the local planning authority to determine

whether a proposed use or operation, or an existing operational development or an existing use of land, or any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted, is lawful, and if so, be granted a certificate to that effect.

A Lawful Development Certificate is a legal document stating the lawfulness of past, present or future development. If granted by the local planning authority, the certificate means that enforcement action cannot be carried out to the development referred to in the certificate. However, the certificate will not protect from enforcement action by the planning authority if the specified use or development is then changed 'materially' without a planning application for it.

The certificate is not a planning permission. The planning merits of the use, operation or activity in the application are not relevant. The issue of a certificate depends entirely on factual evidence about the history and planning status of the building or other land and the interpretation of any relevant planning law or judicial authority. The responsibility is on the applicant to provide evidence to support the application.

The NPPG states that "In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved. In determining an application for a prospective development under section 192 of the Town & Country Planning Act a local planning authority needs to ask "if this proposed change of use had occurred, or if this proposed operation had commenced, on the application date, would it have been lawful for planning purposes."

#### **Assessment:**

A Certificate of Lawfulness for a Proposed Development has been submitted as the applicant considers the proposal falls within the permitted development rights of the property.

The proposal must be assessed to ensure that it complies with the conditions Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, which relates to 'buildings etc incidental to the enjoyment of a dwellinghouse'. The application site is not a listed building, nor in article 2(3) land. Therefore sections E.2 and E.3 of Class E of the General Permitted Development Order (2015) are not applicable in this instance.

Development is not permitted by Class E if:

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use) **COMPLIES**

(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) **COMPLIES**

(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 **COMPLIES**

(d) the building would have more than a single storey; **COMPLIES**

(e) the height of the building, enclosure or container would exceed— (i) 4 metres in the case of a building with a dual-pitched roof, **N/A** (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, **COMPLIES**, the outbuilding would be within 2m of the boundary of the curtilage. The maximum height of the outbuilding would be 2.5m or (iii) 3 metres in any other case, **N/A**

(f) the height of the eaves of the building would exceed 2.5 metres; **COMPLIES**

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

(h) it would include the construction or provision of a verandah, balcony or raised platform; **COMPLIES**

(i) it relates to a dwelling or a microwave antenna; **COMPLIES**

(j) the capacity of the container would exceed 3,500 litres; **COMPLIES**

E4. For the purposes of Class E, “purpose incidental to the enjoyment of the dwellinghouse as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse. **COMPLIES**, the outbuilding would be used to house equipment used to help the rehabilitation of the owner.

### **Equality Act**

In determining this application the Council is required to have regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation. It is considered that there is no indication or evidence (including from consultation on the current applications) that the protected groups have or will have different needs, experiences, issues and priorities in relation to this particular planning application.

### **Conclusion:**

The proposal has been assessed against the Town and Country Planning Act 1990 (as amended) and Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. It can be confirmed that the proposed development would be lawful for planning purposes on the basis of the following drawings:

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Therefore the Local Planning Authority can issue the applicant with a Certificate of Lawfulness for the proposed development.

**Recommendation: GRANT CERTIFICATE**

**1:1250 Location Plan (Not to Scale)**

