

## DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
File completed and officer recommendation:	AC	26 <sup>th</sup> May 2020
Planning Development Manager authorisation:	SCE	26.05.2020
Admin checks / despatch completed	CC	27.05.2020
Technician Final Checks/ Scanned / LC Notified / UU Emails:	BB	27/05/2020

**Application:** 20/00386/LUPROP                      **Town / Parish:** Alresford Parish Council  
**Applicant:** Mr and Mrs Teare  
**Address:** 24 Hawkins Road Alresford Colchester  
**Development:** Proposed annex for family members, self-contained unit ancillary to the house, single storey, not exceeding 2.5 m in height.

### **1. Town / Parish Council**

No comments received

### **2. Consultation Responses**

No responses received

### **3. Planning History**

19/01944/FUL	Proposed stand-alone single storey one bedroom annex to the rear of the dwelling for family use.	Withdrawn	24.03.2020
20/00386/LUPROP	Proposed annex for family members, self-contained unit ancillary to the house, single storey, not exceeding 2.5 m in height.	Current	

### **4. Relevant Policies / Government Guidance**

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

### **5. Officer Appraisal (including Site Description and Proposal)**

The property is the right hand of a pair of semi-detached dwellings constructed as part of a wider mid-1960's estate.

The Lawful Development Certificate seeks to confirm that a proposed annex for family members, self-contained unit ancillary to the house, single storey, not exceeding 2.5 m in height is in accordance with the requirements laid out in Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Class E – The provision within the curtilage of the dwellinghouse of— (a) 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; or (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

E.1 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).

Permission to use the dwellinghouse as a dwellinghouse has not been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use). **The proposal 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);

The total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would not exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse). **The proposal 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;

No 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 proposal complies.**

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

The building would not have more than a single storey. **The proposal 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,
- (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;

The height of the building, enclosure or container would be within 2 metres of the boundary of the curtilage of the dwellinghouse and not exceed 2.5m. **The proposal complies.**

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

The height of the eaves of the building would not exceed 2.5 metres. **The proposal complies.**

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

The building, enclosure, pool or container would not be situated within the curtilage of a listed building. **The proposal complies.**

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

The proposal would not include the construction or provision of a verandah, balcony or raised platform. **The proposal complies.**

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

The proposal does not relate to a dwelling or a microwave antenna. **The proposal complies.**

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

Not applicable.

E.2 In the case of any land within the curtilage of the dwellinghouse which is within -

- (a) an area of outstanding natural beauty;
- (b) the Broads;
- (c) a National Park; or
- (d) a World Heritage Site,

development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

The site is not within any of the areas covered in (a), (b) (c) or (d). **The proposal complies.**

E.3 In the case of any land within the curtilage of the dwellinghouse which is article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.

The curtilage of the dwellinghouse which is not article 2(3) land.

Interpretation of Class E

E.4 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.

Under Class E of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (the 2015 GPDO) the provision within the curtilage of a dwellinghouse of a building required for a purpose incidental to the enjoyment of the dwellinghouse is permitted development. The proposed building meets the dimensional restrictions of Class E and the second main issue is therefore whether the structure is for a purpose incidental to the enjoyment of the dwellinghouse.

The Permitted development rights for householders Technical Guidance states, with regard to Class E buildings, that "A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen."

A layout plan submitted with the application indicates that the building would have a bedroom with en-suite facilities, a kitchenette and a lounge. The building would have, as a matter of fact, all that is necessary to provide self-contained living accommodation. The proposed building does not therefore satisfy the Technical Guidance.

There is extensive Case Law on the subject of the proposal being incidental to the enjoyment of the dwellinghouse.

[APP/C1055/X/18/3208685 : Siting of a mobile home to be used for annexe accommodation to the main dwelling.](#)

The layout plan submitted with the application indicated that the cabin would have two bedrooms one with an en-suite shower room, a toilet/store, a living room and a 'cloaks, sink and boiler' room, the living and eating area would include a hob, sink, fridge/freezer and kitchen surfaces.

The Inspector concluded the cabin would have, as a matter of fact, all that is necessary to provide self-contained living accommodation and that the building is not required for a purpose that is incidental to the enjoyment of the dwellinghouse.

APP/T5150/X/17/3188748 : a timber garden building in the rear garden

The plans submitted with the application show a building containing an entrance/lobby, a toilet, a gym and a T.V. room. The appellant states that the additional space was needed to accommodate family members and their extended family. Other evidence available showed accommodation which included a bedroom, kitchen, lounge, sink and shower.

The Inspector concluded that, having regard to all of the above points, the evidence presented does not show, on the balance of probabilities that the outbuilding was reasonably required for a purpose incidental to the occupants of the dwelling.

APP/P4605/X/17/3171980 : rear outbuilding / annex to property.

The plans that accompanied the application for a certificate of lawfulness for an outbuilding / annex show that the proposed building would incorporate a kitchen, lounge, bathroom and two bedrooms. This is clearly primary living accommodation. Indeed it would contain all the facilities necessary to function as a separate self-contained unit of accommodation.

It could not be regarded as a building for purposes incidental to the enjoyment of the dwelling.

The planning agent put forward a case [15/00409] where the Local Planning Authority granted a Lawful Development Certificates for a Class E outbuilding which contained primary living accommodation. The case quoted pre-dates the Technical Guidance which was first published in April 2016; the guidance was written to provide clarification on the detailed rules on householder permitted development and the terms used in those rules.

## **6. Recommendation**

Lawful Use/development Refused

## **7. Conditions / Reasons for Refusal**

- 1 The Permitted development rights for householders Technical Guidance states, with regard to Class E buildings, that "A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen."

A layout plan submitted with the application indicates that the building would have a bedroom with en-suite facilities, a kitchenette and a lounge. The building would have, as a matter of fact, all that is necessary to provide self-contained living accommodation. The proposed building does not therefore satisfy the Technical Guidance.

Accordingly, the proposal fails to comply with Schedule 2, Part 1, Class E, paragraph E.4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 as it has not been adequately demonstrated that the development has a purpose incidental to the enjoyment of the dwellinghouse.

## **8. Informatives**

Application Refused Following Discussion - Where there is no Way Forward

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

<b>Are there any letters to be sent to applicant / agent with the decision?</b>		NO
<b>Are there any third parties to be informed of the decision?</b>		NO