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ITEM NO 7.6

Application 211259

Applicant: Mr Dennis Willetts

Proposal: Application for a lawful development certificate to erect a summerhouse of 2.5m octagonal base, that is having an area less than 50% of the area of the house, and not exceeding 2.5m in height, and sited within 2m of the boundary of the curtilage.

Location: Land To The Rear Of, The Retreat, Wood Lane, Fordham Heath, Colchester, CO3 9TR

Ward: Lexden & Braiswick

Officer: Simon Grady

Recommendation: Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the Applicant is a current Colchester Borough Council Ward Member.

2.0 Synopsis

- 2.1 This application has been made by the applicant in order to request a formal legal determination as to whether or not the proposed development requires a planning application or can be undertaken via the planning permission granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is therefore 'permitted development'.
- 2.2 The detailed assessment of the proposed summerhouse in this application against the relevant terms of the aforementioned Order has confirmed that it would be Permitted Development and the application is therefore recommended for approval.

3.0 Site Description and Context

- 3.1 The Application Site contains a detached dwelling lying inside of the village settlement boundary in Eight Ash Green Parish. The site is not in a Conservation Area or an Area of Outstanding Natural Beauty. Wood Lane is to the front of the dwelling (East) and Beech Grove is adjacent on one side (North) with detached dwellings abutting the Application site to the rear (West) and to the other side (South).

4.0 Description of the Proposal

- 4.1 To erect a summerhouse of 2.5m octagonal base in the rear garden of the Application Site. The overall height of the proposed summerhouse would be 2.5m with an eaves height of approximately 2m.

5.0 Land Use Allocation

- 5.1 N/A.

6.0 Relevant Planning History

- 6.1 There is no planning history that is relevant to this application.

7.0 Principal Policies

- 7.1 As the proposed development is for householder operations, the relevant part of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) is Schedule 2, Part 1, which sets out the criteria for the permitted development applicable to Development Within The Curtilage Of A Dwellinghouse. The relevant class is Class E of Part 1, which

sets out the criteria for “Buildings etc incidental to the enjoyment of a dwellinghouse”. If these criteria are satisfied then the proposal constitutes permitted development by virtue of that class. Planning permission is not required for ‘permitted development’.

8.0 Consultations

8.1 Neighbour consultation letters were sent out for this Application but no comments were received.

9.0 Parish Council Response

9.1 Eight Ash Green Parish Council did not comment on this Application.

10.0 Representations from Notified Parties

10.1 No representations were received for this application.

11.0 Parking Provision

11.1 N/A.

12.0 Accessibility

12.1 N/A.

13.0 Open Space Provisions

13.1 N/A.

14.0 Air Quality

14.1 N/A.

15.0 Planning Obligations

15.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

16.0 Report

- 16.1 The only consideration on this application is whether the proposal meets the terms of the relevant class in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) – “the Order”. Material planning considerations do not apply to Lawful Development Certificates.
- 16.2 Class E of the Order stipulates that the provision within the curtilage of a dwellinghouse of any building for a purpose incidental to the enjoyment of the dwellinghouse is permitted development, subject to various conditions and exclusions, which are considered below.
- 16.3 The location plan submitted with the application shows that the proposed summerhouse is within the curtilage of The Retreat, Wood Lane, Fordham Heath and it is considered that the proposed summerhouse would be incidental to the enjoyment of the dwellinghouse.
- 16.4 Paragraph E.1 of Class E sets out the exclusions where development would not be permitted under the Order. The Application is assessed under each exclusion below: -
- a) The Retreat did not become a dwellinghouse by virtue of Class M, MA, N, P, PA or Q of Schedule 2, Part 3 of the Order
 - b) The proposed summerhouse would not cover more than 50% of the total curtilage of The Retreat
 - c) The proposed summerhouse would not be located forward of the principal elevation of The Retreat
 - d) The proposed summerhouse would not be more than single storey
 - e) The height of the proposed summerhouse is within the height restrictions set out. Although it is within 2m of the boundary with the neighbour, the height would not exceed 2.5m
 - f) The height of the eaves of the proposed summerhouse would not exceed 2.5m
 - g) The Retreat is not a listed building
 - h) The proposal does not include a verandah, balcony or raised platform
 - i) The proposal does not include a microwave antenna
 - j) Not applicable – the proposal does not include a container used for domestic heating purposes
 - k) The Retreat was not built under Part 20 of the Order.
- 16.5 Paragraphs E.2 and E.3 of Class E do not apply as the Application Site is not located on the land described in those paragraphs (e.g. in a Conservation Area or Area of Outstanding Natural Beauty).

17.0 Conclusion

- 17.1 Following an assessment of the application, the proposed development is permitted by the Town and Country Planning (General Permitted Development) Order 2015 (as amended) Schedule 2, Part 1, Class E.

18.0 Recommendation to the Committee

- 18.1 The Officer recommendation to the Committee is for the following certificate to be issued to the Applicant as the proposal constitutes permitted development:

COLCHESTER BOROUGH COUNCIL hereby certifies that on 4 May 2021 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and outlined 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 erection of a summerhouse of 2.5m octagonal base, that is having an area less than 50% of the area of the house, and not exceeding 2.5m in height, and sited within 2m of the boundary of the curtilage is development permitted by Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in that the Council considers the development would not fall within that described in paragraphs E.1 of the aforementioned Order.

FIRST SCHEDULE

Application for a lawful development certificate to erect a summerhouse of 2.5m octagonal base, that is having an area less than 50% of the area of the house, and not exceeding 2.5m in height, and sited within 2m of the boundary of the curtilage as shown on Drawing Numbers: 1, 2, 3 and 4.

SECOND SCHEDULE

Land To The Rear Of The Retreat, Wood Lane, Fordham Heath, Colchester, CO3 9TR