

PLANNING APPLICATION REPORT

Case Officer: Craig Hewitt **Parish:** Thurlestone **Ward:** Salcombe and Thurlestone

Application No: 2273/23/CLP

Agent:

Mr Will Hoare
Will Hoare Architects
Blacklers 17
Park Road
Dartington Hall, Totnes
TQ9 6EQ

Applicant:

Lisa and Matt Miller
The Dog Watches
Bantham To Aunemouth Cross
Bantham, Devon
TQ7 3AN

Site Address: The Dog Watches, Bantham, TQ7 3AN

Development: Certificate of lawfulness for proposed rear extension, window alterations, dormer windows, rooflights, front porch, rear balcony & outbuilding

Recommendation: Certificate of lawfulness granted

Key issues for consideration:

The key issue to consider in the assessment of the current application is whether or not the proposed rear extension, window alterations, rooflights, front porch and outbuilding complies with Schedule 2, Part 1, Classes A, C, D and E of the Town and Country Planning (General Permitted Development) Order 2015, as amended, is therefore permitted development, as well as whether planning permission 55/1369/99/F is extant and therefore the dormer windows are lawful development and 55/0249/81/2 is extant in relation to the rear balcony.

Site Description:

The application site relates to the part-single/part-two storey detached dwelling known as The Dog Watches, Banham, which has a several gable roof forms and is part-finished in render. The property is accessed from the south, whilst it is located to the south of the River Avon. An outbuilding exists towards the rear of the property.

The Proposal:

The application seeks the issue of a lawful development certificate to certify that the proposed development can be carried out without planning permission (i.e. it benefits from deemed permission by virtue of Schedule 2, Part 1, Classes A, C, D and E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), and that the dormer windows and rear balcony have extant planning permission.

The proposal seeks to erect a rear extension that would project no more than 4m beyond the original rear elevation of the dwelling, and for a slightly irregular-shaped outbuilding to be sited to the rear of the property. The outbuilding would have a flat roof and would be used as a yoga studio.

Consultations:

No consultations required for this type of application.

Representations:

Comments have been received from Thurlestone Parish Council and The South Hams Society, however, these are not considered as part of this assessment due to the nature of the application.

Relevant Planning History

Reference	Proposal	Decision
55/0242/99/F: FUL	Erection of storage shed	Conditional approval: 31 Mar 99
55/1666/98/F: FUL	Conversion of double garage into study small room in roof and the roofing in of balcony	Conditional approval: 10 Dec 98
55/0249/81/2: ARM	House and garage	Conditional approval: 07 Apr 81
55/1369/99/F: FUL	Amended design for garage conversion and conservatory with slated roof	Conditional approval: 27 Sep 99
55/1243/80/1: OPA	One dwelling	Conditional approval: 30 Sep 80

ANALYSIS

The proposed rear extension and window alterations

Part 1, Class A – enlargement, improvement or other alteration of a dwellinghouse.

The development proposal is considered against the relevant criteria set out in Schedule 2, Part 1 Class A as follows:

A.1 (a)	Was the dwelling house consented by virtue of Class M, N, P or Q of Schedule 2, Part 3 of GPDO?	No
A.1 (b)	Does the cumulative total of all development, other than original dwelling house, exceed 50% of total area of curtilage (excluding ground area of original dwelling)?	No
A.1 (c)	Does the height of the proposed enlargement exceed the highest part of the roof of existing dwelling house?	No
A.1 (d)	Does the height of eaves of the proposed enlargement exceed the height of eaves of existing dwelling house?	No
A.1 (e)	Does the enlargement extend beyond wall which forms either the principal elevation of the original dwelling house, or fronts the highway and forms side elevation of original dwelling house	No
A.1 (f)	<u>Single storey extensions</u> . Does the development extend beyond a rear wall of the original dwelling house by more than 4 metres if dwelling house is detached, or 3 metres in any other case & exceed 4 metres in height?	No
A.1 (g)	<u>Single storey extensions</u> . Is the dwelling house on article 2(3) land or SSSI? Does the proposed development extend beyond rear wall of the original dwelling house by more than 8 metres if dwelling house is detached, or 6 metres in any other case & exceed 4 metres in height?	No
A.1 (h)	<u>Two storey extensions+</u> . Does the proposed enlargement extend	n/a

	beyond the rear wall of the original dwelling house by more than 3 metres or is situated within 7 metres of any boundary of the curtilage of the dwelling house, opposite the rear wall of the dwelling house.	
A.1 (i)	If the proposed enlargement is within 2 metres of the boundary of the curtilage of the dwelling house, does the height of the eaves exceed 3 metres?	No
A.1 (j)	If the proposed enlargement extends beyond a wall forming the side elevation of the original dwelling house, does it exceed 4 metres in height or, have more than a single storey or, have a width greater than half of the width of the original dwelling house?	n/a
A.1 (k)	Does the proposed development include verandah, balcony or raised platform, microwave antenna, chimney, flue or soil and vent pipe, or any alteration to the roof of the dwelling house?	No

Dwelling houses on article 2(3) land only (AONB, Conservation Area, World Heritage Site)

A.2 (a)	Does the proposal include the cladding of any part of the exterior of the dwelling with stone, artificial stone, pebble dash, render, timber, plastic or tiles?	Yes but materials match
A.2 (b)	Does the enlargement extend beyond a side wall of the original dwelling house?	No
A.2 (c)	Does the proposed enlargement have more than a single storey and extend beyond the rear wall of the original dwelling house?	No

Conditions

A.3 (a)	<u>N/A to conservatories</u> . Are the external materials proposed of a similar appearance to those used on the exterior of the existing dwelling house?	Yes
A.3 (b)	Is any upper floor window, situated within a wall or roof slope forming a side elevation of the dwelling house, obscure glazed and non-opening (unless part of the window which can be opened is more than 1.7m above the floor level of the room)?	n/a
A.3 (c)	Is the roof pitch of any enlargement, which has more than a single storey, so far as practicable, the same roof pitch of the original dwelling house?	n/a

The proposed rooflights

The development proposal is considered against the relevant criteria set out in Schedule 2, Part 1 Class C as follows:

(a) Has permission to use this house been granted only by virtue of Class M, N, P or Q of part 3 of Schedule 2?	No
(b) Would the alteration protrude beyond 0.15 of the roof plane?	No
(c) Would it result in the highest part of the alteration being higher than the highest part of the roof;	No
(d) Would it consist of, or include: <ul style="list-style-type: none"> i. Installation, alteration or replacement of chimney, flue or soil and vent pipe. ii. The installation, alteration or replacement of solar photovoltaics or solar thermal equipment. 	No

Development is permitted by Class C subject to the condition that any window located on a roof slope forming a side elevation of the dwellinghouse shall be obscure-glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

The proposed porch

The development proposal is considered against the relevant criteria set out in Schedule 2, Part 1 Class D as follows:

(e) Has permission to use this house been granted only by virtue of Class M, N, P or Q of part 3 of Schedule 2?	No
(f) Would the ground area (measured externally) of the structure would exceed 3 square metres?	No
(g) Would any part of the structure would be more than 3 metres above ground level?	No
(h) Would any part of the structure would be within 2 metres of any boundary of the curtilage of the dwellinghouse with a highway?	No

The proposed outbuilding

The development proposal is considered against the relevant criteria set out in Schedule 2, Part 1 Class E as follows:

E.1 (a)	Was the dwelling house consented by virtue of Class M, N, P or Q of Schedule 2, Part 3 of GPDO?	No
E.1 (b)	Does the cumulative total ground area covered by buildings, enclosures and containers within the curtilage, other than original dwelling house, exceed 50% of total area of curtilage (excluding ground area of original dwelling)?	No
E.1 (c)	Would any part of the building, enclosure, pool, or container be situated on land forward of a wall forming the principal elevation of the original dwellinghouse?	No
E.1 (d)	Would the building have more than a single-storey?	No
E.1 (e)	Does the height of the building, enclosure, pool, or container exceed 4metres (in the case of a dual-pitched roof), 2.5 metres (in the case of a building, enclosure, pool, or container within 2 metres of the boundary of the curtilage of the dwellinghouse), or 3 metres (in any other case)?	No
E.1 (f)	Would the height of the eaves of the building exceed 2.5 metres?	No
E.1(g)	Would the building, enclosure, pool, or container be situated within the curtilage of a listed building?	No
E.1(h)	Would the proposal include the provision of a verandah, balcony, or raised platform?	No
E.1(i)	Does the proposal relate to a dwelling or microwave antenna?	No
E.1(j)	Would the capacity of the container exceed 3,500 litres?	No
E.1 (k)	Was the dwellinghouse built under Part 20 of this Schedule (construction of new dwellinghouses)?	No

Dwelling houses on article 2(3) land only (AONB, Conservation Area, World Heritage Site)

E.2	Would the total ground area covered by buildings, enclosures, pools	No
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	and containers situated more than 20 metres from any wall of the dwellinghouse exceed 10 square metres?	
E.3	Would the development be situated on land between a wall forming the side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse?	No

The proposed dormer windows and rear balcony

The development proposal is considered against whether planning permission 55/1369/99/F, which included the proposed dormer windows, was ever commenced and therefore extant. The front conservatory proposed under 55/1369/99/F can clearly be seen to have been constructed, and therefore 55/1369/99/F is considered extant: the dormer windows have planning permission and would be lawful development.

The original planning permission for the dwelling, 55/0249/81/2, was clearly commenced and therefore 55/0249/81/2 is considered extant: the rear balcony has planning permission and would be lawful development.

A review of the planning history for the property indicates that permitted development rights are intact.

On the basis of the above, the proposed development constitutes permitted development under the Town and Country Planning (General Permitted Development) Order 2015, as amended, subject to the conditions that any window located on a roof slope forming a side elevation of the dwellinghouse shall be obscure-glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and that the materials used in any exterior work shall be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse. As such no planning permission is required and a Certificate of Lawfulness can be issued.

Planning Policy

The application requires an assessment of whether the proposed development is permitted development. It is therefore not necessary to consider the planning merits of the application.

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

The above report has been checked and the plan numbers are correct in APP and the officers report. As Determining Officer I hereby clear this report and the decision can now be issued.

Name and signature: Craig Hewitt

Date: 03/10/2023