

Recommendation: **GRANT A CERTIFICATE OF LAWFUL USE**

Councillor Husky Patel
No Comment.

Councillor Ms C Howard - Purbrook Ward

No Comment.

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 0

Number of site notices: Not applicable.

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment:

7 Legal Considerations

- 7.1 The development has been assessed against the 'Permitted Development' allowances in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 7.2 The development has been assessed against Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 7.3 The proposal falls under Schedule 2, Part 1, Class E::

Permitted Development

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

The outbuilding is a rectangle shape with a width of approximately 9.8 metres, a depth of approximately 6 metres and has a pitched roof with a maximum height of approximately 3.9 metres. The total floor area of the outbuilding is approximately 58.8 square metres. The total floor area of the property is approximately 126 square metres.

The critical test to be applied is firstly whether the use of the outbuilding, in the context of the whole planning unit is incidental or subordinate to the main use of the property as a dwellinghouse and secondly whether the outbuilding is reasonably required in order to accommodate the use. The use of the outbuilding does not provide primary living accommodation being used as a storage room and restoration of bikes and a man cave. The storage of the bikes is for the occupier's of the house and occasionally

friends. The restoration of bikes is used at a small scale repairing their own bikes and occasionally friends. As the footprint of the outbuilding is smaller than the existing dwellinghouse, it is considered to be subordinate in land-use terms. On the balance the use of the outbuilding is considered incidental to the enjoyment of the main dwellinghouse, not subject to planning control.

Development not permitted

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, PA or Q of Part 3 of this schedule (changes of use);

Not applicable.

(b) the total area of the 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 development does not exceed this.

(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;

The outbuilding is not located on land forward of a wall forming the principal elevation of the original dwellinghouse.

(d) The building would have more than a single storey

The outbuilding is single storey.

(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;

Originally a Location Plan was submitted showing a small area around 136 London Road. According to the plans submitted the outbuilding was within 2 metres of the boundary of the curtilage of the dwellinghouse on both sides. However, it was understood the plans were drawn incorrectly and the boundary to the south is situated further back therefore being further than 2 metres away from the curtilage of the dwellinghouse. To the north the Location Plan was redrawn to reflect the rear garage which is part of the curtilage of the dwellinghouse and not owned by the commercial car showroom. The plans were updated to this effect. Therefore, it is considered the outbuilding which has a pitched roof with a height of approximately 3.9 metres is further than 2 metres away from the curtilage of the dwellinghouse.

(f) the height of the eaves of the building do not exceed 2.5 metres

The eaves do not exceed 2.5 metres.

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

The site is not situated within the curtilage of a listed building.

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

It does not.

(i) it relates to a dwellinghouse or a microwave antenna; or

It does not.

(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.

Not applicable.

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.

No applicable

8 Conclusion

8.1 The proposed development falls within permitted development rights as set out in Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Therefore, a Lawful Development Certificate can be issued.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/20/00668

Havant Borough Council, as Local Planning Authority, certifies that on 05 August 2020 the use described in the First Schedule to this certificate in respect of land described in the Second Schedule and as shown edged in red on the submitted location plan would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended) for the following reason:

The development falls under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) and the use of the building, as described in the application is incidental to the enjoyment of the dwellinghouse as such.

FIRST SCHEDULE:

This certificate relates to the following development:

Application for Lawful Development Certificate relating to the existing use of the outbuilding for uses incidental to the use of the dwellinghouse as described in the written particulars, plans and other documents submitted with your application received on 26 October 2020.

SECOND SCHEDULE:

This certificate relates to land at 136 London Road, Widley, Waterlooville, PO7 5EW as shown edged red on the submitted Location Plan received on 26 October 2020.

OTHER IMPORTANT INFORMATION:

- (1) This Certificate is issued solely for the purpose of Sections 191 of the Town and Country Planning Act 1990 (as amended). It does not relate to any other application that may be required under any other part of the Town and Country Planning Act, the Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6571.
- (2) It certifies that the development specified in the First Schedule taking place on land described in the Second Schedule would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended) on the specified date and thus would not have been liable to enforcement action under part 7 of the 1990 Act on that date.
- (3) The certificate only applies to the extent of the development specified in the First Schedule taking place on land described in the Second Schedule and identified on the attached plan. Any development which is materially different from that described or which relates to other land may render the owner/occupier liable to enforcement action under section 172 of the 1990 Act.
- (4) Your attention is drawn to the attached information regarding your right to appeal to the Department for Transport Local Government and the Regions, if you are aggrieved by the Council's decision.