

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

Number of representations received:

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

(i) Principle of development

7.2 The proposal has been assessed against the 'Permitted Development' allowances in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

7.3 The development has been assessed against Schedule 2, Part 2, Class A

7.4 Class A is relevant for the proposed fence to south boundary, which under Class A1 meets the following tests:

A) the height of the proposed fencing would not be erected or constructed adjacent to a highway used by vehicular traffic therefore Ai and Aii are not applicable

B) the height of the proposed fencing would not exceed 2m above ground floor level.

C) the height of the proposed fencing would not exceed the former height or the height referred to in paragraph B

D) the proposed development is not within the curtilage or other means of enclosure surrounding a Listed Building

7.5 The proposed ditch to be dug for the installation of the sleepers seems to fall within permitted development with regard to size and scaling, this part of the proposal would also fall within lawful development by virtue of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

8 Conclusion

8.1 The proposed development falls within permitted development regulations as set out in within Schedule 2, Part 2, Class A 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 Development** for application APP/20/00746 as set out in the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 2, Class A

Wording for Decision Notice

Havant Borough Council, as Local Planning Authority, certifies that on 11 September 2020 the development described in the First Schedule to this certificate in respect of land described in the Second Schedule and edged red on the plan attached to this certificate would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason:

The proposed fence to south boundary within the curtilage of The Saltings, 74 Warblington Road, Emsworth, PO10 7HH is permitted development by virtue of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

FIRST SCHEDULE:

This certificate relates to the following development:

Application for Certificate of Lawful Development relating to proposed fence to south boundary, as described in the written particulars, plans and other documents submitted with your application received on 22 August 2020 and 11 September 2020.

SECOND SCHEDULE:

This certificate relates to land at The Saltings, 74 Warblington Road, Emsworth, PO10 7HH as shown edged red on the submitted Location Plan received 22 August 2020.

OTHER IMPORTANT INFORMATION:

- (1) This Certificate is issued solely for the purpose of Sections 192 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 192 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) The effect of the certificate is also qualified by the provision in section 192(4) of the 1990 Act (as amended), which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matter relevant to determining such lawfulness.
- (5) 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.