
Site Address:	8 Kings Road, Emsworth, PO10 7HN		
Proposal:	Application for Certificate of Lawfulness relating to proposed outbuilding.		
Application No:	APP/20/00635	Expiry Date:	22/09/2020
Applicant:	Mr Callaghan		
Agent:	Mr Hinton	Case Officer:	Joseph Toole
	Corinthian Architectural Design		
Ward:	Emsworth		

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

1 Site Description

8 Kings Road, Emsworth, is located to the south of Kings Road. The application site is an end of terrace property comprising grey render and interlocking roof tiles. Vehicular access is from Kings Road with parking to the front and side.

The property is an end of terrace within a residential area. Under references APP/20/00195 and APP/20/00377 the property have been granted planning permission for a joined up rear extension.

2 Planning History

APP/18/00001 - Proposed refurbishment (including extensions and alterations) to no 10. Proposed complete re-building of no 8 (including extensions and alterations)., PERM,24/05/2018

APP/19/01168 - Prior notification for single storey development extending 6 metres beyond the rear wall of the original dwelling, incorporating an eaves height of 2.9 metres and a maximum height of 3.6 metres.
, WD,08/01/2020

APP/20/00195 - Prior notification for single storey development extending 6 metres beyond the rear wall of the original dwelling, incorporating an eaves height of 2.15 metres and a maximum height of 3.3 metres.
, GPDC,01/04/2020

APP/20/00377 - Single storey rear extension, alterations to fenestration to include velux cabrio window in rear roof elevation, PERM,30/07/2020

3 Proposal

Application for Certificate of Lawfulness relating to proposed outbuilding.

4 Policy Considerations

National Planning Policy Framework
Havant Borough Council Borough Design Guide SPD December 2011
Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

Havant Borough Local Plan (Allocations) July 2014

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

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: 3

Comment	Officer Comment
This annex was originally proposed on Full Planning Application APP/20/00377. Now trying to get through permitted development route.	The application is asset on its own merits.
- Large building	Please see section 7.
- Loss of parking	This is not a consideration on a Certificate of Lawfulness application.
- New access created from 32b and 24 Kings Road	Not a consideration on a Certificate of Lawfulness application.
- To be used as a stand alone dwellinghouse	The amended plans show the use of the outbuilding as a home office, basin/shower and store facilities. the application can only be determined on the information provided.
- To be used as primary accommodation	
- Could be used as an airbnb which would cause concerns with noise and disturbance	This is not a consideration on a Certificate of Lawfulness application and would be a private matter between the parties involved.
- Damage to trees	This is not a consideration on a Certificate of Lawfulness application and would be a

- Damage to fencing	private matter between the parties involved
<u>Amended plans</u>	
- Large home office space, concerns of running a business from home	Please see section 7.
- Glazed patio doors still remain on south elevation	The elevations have been amended to now show a store door to the front.
- Would not object a small building that contained a true home office and kayak/bike store	Noted

7 **Permitted Development Considerations**

The main consideration is whether the proposed development, is permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

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

Permitted Development under Schedule 2, Part 1, 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

The proposed use of the outbuilding is for a home office, basin/shower and storage. The applicant is no longer proposing to provide primary accommodation in the outbuilding. The determination of the proposal is on the information provided.

The proposed outbuilding would be a rectangle shape with a width of approximately 3.8 metres, a depth of approximately 10.5 metres and a flat roof with a height no higher than 2.5 metres. The total floor area would be approximately 39.9 square metres. The floor area of the property would be approximately 54 square metres following the construction of the two rear extensions approved under references APP/20/00195 and APP/20/00377 respectfully.

The critical test to be applied is firstly whether the use of the proposed outbuilding, in the context of the whole planning unit is intended to be and would remain incidental to the main use of the dwellinghouse as such; and secondly whether the proposed outbuilding would be subordinate to the main dwellinghouse. The intended use of the proposed outbuilding does not provide primary living accommodation to be used as a

home office with washing and storage facilities, incidental to the enjoyment of the dwellinghouse, as such. As to the footprint of the proposal, this would be smaller than the existing dwellinghouse, and would be subordinate to the main dwelling. Subject to the proposal satisfying the permitted development tolerances set out below, the intended use of the proposed outbuilding is considered incidental to the enjoyment of the main dwellinghouse as such and not subject to planning control.

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 proposal 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 proposed outbuilding would not be 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 proposed outbuilding does not have more than a 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;

The proposed outbuilding would be within 2 metres of the boundary of the curtilage of the dwellinghouse with a maximum height of 2.5 metres, therefore meeting the criteria.

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

The eaves would not exceed 2.5 metres.

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

The proposal 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.

Not applicable.

8 Conclusion

- 8.1 The proposed development falls within permitted development 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. The Council's Solicitor concurs with this recommendation.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/20/00635

Havant Borough Council, as Local Planning Authority, certifies that on 12 November 2020 the development 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 192 of the Town and Country Planning Act 1990 (as

amended) for the following reasons:

On the basis of the information submitted by the applicant it has been demonstrated that the outbuilding would be used incidental to the enjoyment of the dwellinghouse as such and would be permitted development under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, planning permission will not be necessary and a Certificate of Proposed Lawful Use can be granted.

FIRST SCHEDULE:

This certificate relates to the following development:

Application for Certificate of Lawfulness relating to proposed outbuilding. as described in the written particulars, plans and other documents submitted with your application received on 29 September 2020.

SECOND SCHEDULE:

This certificate relates to land at 8 Kings Road, Emsworth, PO10 7HN as shown edged red on the submitted Location Plan received 28 July 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.

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location and Site Plan
Proposed Floor Plans and Elevations - 001A
Proposed Elevations - 002A

Reason: - To ensure provision of a satisfactory development.