

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

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:

7 Legal Considerations

- 7.1 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).
- 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 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 7.4 Under Schedule 2, Part 1, Class E the proposal meets the following tests:

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 proposal would be incidental to the enjoyment of the main dwellinghouse therefore deemed acceptable.

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 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.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/20/00651

FIRST SCHEDULE:

This certificate relates to the following development:

Application for Certificate of lawfulness application relating to proposed detached garage. as described in the written particulars, plans and other documents submitted with the application received on 31 July 2020.

SECOND SCHEDULE:

This certificate relates to land at 91 The Brow, Waterloooville, PO7 5BY as shown edged red on the submitted Location Plan received 31 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 Plan, Block Plan, Garage Plan and Elevations - July 2020 - 01

Reason: - To ensure provision of a satisfactory development.