

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

Havant Borough Local Plan (Allocations) July 2014

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Councillor Leah Turner - Hayling East
No Comment.

Councillor M Wilson - Hayling West Ward
No Comment.

Councillor R Raines - Hayling East
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: 1

Comment	Officer Comment
Please confirm if this is an application for a new garage (bearing in mind that there is already one attached to the property) or an additional dwelling room. It is unclear from the application what its purpose is for, what its design will be and its potential detrimental effect and impact on the landscape leading to what could be over development. There has been no prior consultation or discussion on this proposed development	Emailed the concerned neighbour about the details of the application and the process of a Certificate of Lawfulness application.

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 1, Class D and Class E**.

7.4 Under **Schedule 2, Part 1, Class D meets** the following tests:

D.1 Development is not permitted by Class D if -

a) Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

N/A

b) The ground area (measured externally) of the structure would exceed 3 square metres;

The ground area coverage is less than 3sqm.

c) Any part of the structure would be more than 3 metres above ground level; or

The porch is less than 3m in height.

d) Any part of the structure would be within 2 metres of any boundary of the curtilage of the dwellinghouse with a highway.

The porch is more than 2m from site boundaries.

7.5 Under Schedule 2, Part 1, Class E meets the following tests:

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 or Q of Part 3 of this Schedule (changes of use);

N/A. The proposal complies with article E.1(a).

b) The total area of 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 total area of the ground covered by the proposed outbuilding is substantially less than 50% of the total area of the curtilage (excluding the area covered by the host dwelling). The proposal complies with Article E.1 (c).

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 proposal outbuilding is not forward of the wall forming the principle elevation of the host dwelling. The proposal complies with Article E.1(c).

- d) The building would have more than a single storey;

The proposed outbuilding will not exceed one storey. The proposal complies with Article E.1(d).

- e) The height of the building, enclosure or container would exceed -

a. 4 metres in the case of a building with a dual-pitched roof

b. 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

c. 3 metres in any other case;

The proposed outbuilding is within 2 metres of the boundary of the curtilage and accordingly does not exceed 2.5 metres. The proposal complies with Article E.1(e).

- f) The height of the eaves of the building would exceed 2.5 metres;

The proposed outbuilding is flat roof in design and the eaves of the building do not exceed 2.5 metres. The proposal complies with Article E.1(f).

- g) The building, enclosure, pool or container would be situated within the curtilage of a listed building;

The host dwelling is not listed nor is it within the curtilage of a listed building. The proposal complies with Article E.1(g).

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

The proposal does not involve the construction or provision of a verandah, balcony or raised platform. The proposal complies with Article E.1(h).

- i) It relates to a dwelling or a microwave antenna; or

N/A.

- j) The capacity of the container would exceed 3,500 litres;

N/A.

- 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 the ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

N/A.

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.

8 Conclusion

- 8.1 The proposed development falls within permitted development regulations as set out in **Schedule 2, Part 1, Class D and 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/20/00110

FIRST SCHEDULE:

This certificate relates to the following development:

Application for a certificate of lawfulness for proposed erection of a porch and an outbuilding. as described in the written particulars, plans and other documents submitted with your application received on 10 February 2020.

SECOND SCHEDULE:

This certificate relates to land at 2 Eastoke Avenue, Hayling Island, PO11 9QW as shown edged red on the submitted Location Plan received 10 February 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.

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

Location Plan
Proposed Site Plan
Proposed Elevations N&W - REV B
Proposed Elevations S&E - REV B

Reason: - To ensure provision of a satisfactory development.