
Site Address: 9 Towers Garden, Havant, PO9 1RZ
Proposal: Application for Certificate of Lawfulness relating to proposed hardstanding.
Application Type: Certificate of Lawfulness
Application No: APP/22/00074 Expiry Date: 04/04/2022
Applicant: Mr L Legg
Agent: Case Officer: Denise Sheath
Ward: St Faiths

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

1 Site Description

9 Towers Garden, Havant, PO9 1RZ

2 Planning History

05/62454/000 - Dormer window in rear roof space. PERM - 15/09/2005
APP/21/00059 - Hardstanding for car parking. REF - 06/04/2021

3 Proposal

Application for Certificate of Lawfulness relating to proposed hardstanding.

4 Legal Considerations

- 4.1 The Town and Country Planning (General Permitted Development) (England) Order 2015.

5 Statutory and Non Statutory Consultations

Not required

6 Community Involvement

Not required for a Certificate of Lawful Proposed Use or Development.

7 Legal Considerations

- 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 Part 1 Class F.

7.4 Under Class F the proposed hardstanding meets the following tests:

- (a) Permission to use the dwellinghouse as a dwellinghouse has not been granted only by virtue of Class M, N, P, PA or Q of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (changes of use)
- (b) The dwellinghouse has not been built under Part 20 of this Schedule (construction of new dwellinghouses)

F.2 – Conditions:

- (a) the hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and
- (b) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres, either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

The Application form and plans submitted with the application confirms that the above conditions were met, with the works to the hard surface completed on 23 February 2022.

In support of the application, the applicant submitted a statement from the builder confirming that the start date for the construction of the hardstanding was undertaken on 21 February 2022 with the works completed on 23 February 2022. The statement also provides information relating to each of the works which were carried out during this period.

A subsequent site visit was undertaken by the case officer on 14 March 2022 in which it was noted that the hardstanding was completed.

7.4 Havant Borough Council (HBC) made an Article 4 direction on 6th June 2012 in relation to all unlisted buildings within the Langstone Conservation Area, which includes the application site, withdrawing the deemed permission under Class F Schedule 2 Part 1 of GDPO for development concerning the provision of hard standing in the curtilage of the dwelling house ("A4 Direction".) However, the Article 4 Direction was not subsequently confirmed by HBC following the expiry of the consultation period. HBC has now confirmed the Article 4 under seal on 02 March 2022.

Based on the applicant's evidence before the LPA the hard surfaced area was constructed and completed before the Article 4 Direction came into effect. (The Direction is unable to remove permitted development right retrospectively.) The LPA has no evidence to contradict or otherwise make the applicant's version of events less than probable. The LPA is of the view that there is no good reason to refuse the application, as the applicant's evidence alone is considered sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

8 Conclusion

- 8.1 There is sufficient evidence as detailed in the submitted documentation to prove that the construction of a hardstanding to the front of the property was undertaken under the Town and Country Planning (General Permitted Development) (England) Order 2015, Part 1 'Development within the curtilage of a dwelling house', Class F, prior to the Article 4 Direction coming into effect.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/22/00074

FIRST SCHEDULE:

This certificate relates to the following development:

Application for Certificate of Lawfulness relating to proposed hardstanding. as described in the written particulars, plans and other documents submitted with your application received on 07 February 2022 and 15 February 2024.

SECOND SCHEDULE:

This certificate relates to land at 9 Towers Garden, Havant, PO9 1RZ as shown edged red on the submitted Location Plan received 07 February 2022.

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.