
Site Address:	16 Selborne Avenue, Havant, PO9 4PX		
Proposal:	Application for Certificate of Lawfulness relating to proposed double garage.		
Application No:	APP/21/01403	Expiry Date:	08/02/2022
Applicant:	Mr L Sturgess		
Agent:	Mrs T Parker	Case Officer:	Lewis Ford
	Bespoke Architects		
Ward:	Barncroft		

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

1 Site Description

16 Selborne Avenue, Havant, PO9 4PX

2 Planning History

APP/19/00860 - Erection of 1No. 3 bedroom detached dwelling., WD,16/10/2019
GEN/19/00922 - Sequential Test, UNK,
APP/19/01254 - Erection of 1No. 3bedroom detached dwelling.(Revised)., REF,06/03/2020
APP/20/00302 - Erection of 1No. 3bedroom detached dwelling.(Revised)., REF,03/06/2020
GEN/20/00414 - Erection of a 2 bed property or group of garages., ,10/08/2020
APP/21/00353 - Erection of 1No.2bed dwelling., REF,27/08/2021

3 Proposal

Application for Certificate of Lawfulness relating to proposed double garage.

4 Policy Considerations

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

5 Statutory and Non Statutory Consultations

Not relevant for an application for a Certificate of Lawfulness of Proposed Development.

6 Community Involvement

Not relevant for an application for a Certificate of Lawfulness of Proposed Development.

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 A search of the planning history has not revealed any conditions that restrict permitted development rights, nor is the dwellinghouse part of an Article 4 direction.
- 7.3 The proposed development falls under, and so has been assessed against, Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Class E provides permitted development rights within the curtilage of a dwellinghouse for:
- 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.
- 7.4 The proposed development would comprise a double garage with a storage area and would have a maximum width of approximately 9.65 metres, a maximum depth of approximately 5.6 metres, and a flat roof with a maximum height of approximately 2.5 metres. The total floor area is approximately 42 square metres.
- 7.5 There are two critical tests to be applied under Class E. The first is whether the use of the proposed development, in the context of the whole planning unit, is incidental or subordinate to the main use of the property as a dwellinghouse. The second is whether the proposed development is reasonably required to accommodate the use.
- 7.6 The proposed use does not provide primary living accommodation as the proposed development is to be used as a new double garage and storage area. This is considered incidental to the main use of the property as a dwellinghouse. In addition, the proposed development is also deemed to be reasonable to accommodate the proposed use. Furthermore, the use of the proposed development is considered incidental to the enjoyment of the main dwellinghouse and, as such, not subject to planning control.
- 7.7 The proposed development has been assessed against the following criteria under Class E.

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).**

This is not applicable to the proposed development.

- 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 proposed development would not exceed this limit.

- 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 development would be flush with, and would therefore not be on land forward of, the wall forming the principal elevation of the original dwellinghouse.

d) The building would have more than a single storey.

The proposed development would be 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 development would be within 2 metres of the boundary of the curtilage of the dwellinghouse and would be exactly 2.5 metres in height as specified by ii) above.

f) The height of the eaves of the building do not exceed 2.5 metres.

The proposed eaves would be exactly 2.5 metres in height.

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

The proposed development would not be situated within the curtilage of a listed building.

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

The proposed development would not.

i) It relates to a dwellinghouse or a microwave antenna.

The proposed development would not.

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

This is not applicable to the proposed development.

E.2 In the case of any land within the curtilage of the dwellinghouse which is within -

- a) An Area of Outstanding Natural Beauty (AONB)**
- 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.

This is not applicable to the proposed development.

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.

This is not applicable to the proposed development.

8 Conclusion

- 8.1 The proposed development falls within permitted development allowances as set out in **Schedule 2, Part 1, Class E** of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, a Lawful Development Certificate **can** be issued.

9 RECOMMENDATION:

That the Head of Planning be authorised to **GRANT A LAWFUL DEVELOPMENT CERTIFICATE** for application APP/21/01403 for the following reason:

The proposed development falls within permitted development allowances as set out in Schedule 2, Part 1, Class E 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 Lawfulness relating to a proposed double garage as described in the written particulars submitted with your application on 08 December 2021, and the amended plans and other documents submitted with your application received on 31 January 2022 which are referenced as follows:

Drg No. PO1A - Block & Location Plan
Drg No. PO2A - Proposed Floor & Elevations
Drg No. PO3A - Proposed Elevations

SECOND SCHEDULE:

This certificate relates to land at 16 Selborne Avenue, Havant, PO9 4PX as shown edged red on the submitted Block and Location Plan received on 31 January 2022.

OTHER IMPORTANT INFORMATION:

- (1) This certificate is issued on the basis that the agent confirmed via email on 25 January 2022 that the proposed double garage (with storage) would be used for a purpose incidental to the enjoyment of the dwellinghouse.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) 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.