
Site Address:	28 Wittering Road, Hayling Island, PO11 9SP		
Proposal:	Application for Certificate of Lawful Development relating to conversion of garage to ancillary living accommodation.		
Application No:	APP/13/00840	Expiry Date:	17/10/2013
Applicant:	Mr Gibson	Team:	Team 1
Agent:	Mr P Walker	Case Officer:	Stephen Andrews
	Island Design		
Ward:	Hayling East		

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

1 Site Description

The application site is made up of a two storey Art Deco dwelling, with flat roof and parapet wall. The dwelling has a single storey rear extension with balcony that overlooks the Creek to the rear of the site (north). The site has access to the Creek, which has the following designations AONB, SPA, SAC, SSSI, English Nature Conservation Zone, RAMSAR. To the front of the site is a large detached double garage with large store at first floor level. There is on site parking for several vehicles with a single access onto Wittering Road. There is a TPO tree towards the front boundary of the application site, with areas of the front of the site falling within Flood Zones 2 and 3.

Wittering Road is a quiet residential thoroughfare at the Eastern end of Hayling Island. The dwellings along Wittering Road are predominantly detached within good sized verdant plot; particularly those along the east side of the road.

Despite the natural screening that dominates the street scene, the existing detached garage of the site has a strong visual presence.

2 Planning History

APP/13/00604 - Conversion of existing garage into ancillary accommodation to the main dwelling. Refused - 15/08/2013

Reason: The development as proposed would result in the creation of an independent dwelling, by reason of the layout, scale, appearance and all the internal facilities associated with that of an independent dwelling. The result would be a cramped form of development, with the resultant activities associated with an additional independent dwelling materially altering the character and appearance of the site. The development would therefore be unacceptably harmful to the character and appearance of the area contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework, 2012. In arriving at this decision regard has been given to Sections 55 and 56 of the Town and Country Planning Act 1990 and advice contained within paragraphs 2.81 and 2.82 of Circular 10/97.

03/55227/004 - Proposed new dwelling over site of detached garage and store approved under planning permission 97/55227/002. Refused - 27/10/2003. Appeal Dismissed - 23/11/2004.

98/55227/003 - Two storey and single storey side extensions. Approved - 15/12/1998.

97/55227/002 - Replacement of existing garage with detached double garage and store over to south-west of dwelling. Approved - 20/02/1998.

90/55227/000 - Ground floor rear extension and extension to existing balcony. Approved - 21/08/1990.

3 Proposal

Section 192 application for a Lawful Development Certificate to establish whether the proposed conversion of the existing detached double garage and store to ancillary accommodation to the main dwelling is development and if it is whether it is permitted development under the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008; an amendment to the Town and Country Planning (General Permitted Development) Order 1995.

The proposal includes the removal of the garage doors and insertion of two patio doors and single entrance door in the front elevation.

The floor plans as proposed show the provision of a shower room and games room/lounge at ground floor and two bedrooms and a bathroom at first floor level.

The kitchen accommodation provided in the previous application APP/13/00604 has now been removed from the layout.

4 Policy Considerations

National Policies

N/A

Core Strategies 2011 forming part of the HBLDF

N/A

Listed Building Grade: Not applicable.

Conservation Area: Not applicable.

5 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: 0

6 Principal Issues

This application seeks a certificate of lawfulness for a proposed use or development comprising of the conversion of the existing garage to ancillary habitable

accommodation and associated alterations to facilitate the conversion.

The first aspect to consider is whether the work proposed constitutes development within the meaning of the Town and Country Planning Act 1990 as amended. If it does not constitute development a Certificate of Lawful Proposed Development should be issued confirming development is not involved. Section 55 of the Town and Country Planning Act states:

Meaning of “development” and “new development”.

Subject to the following provisions of this section, in this Act, except where the context otherwise requires, “development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

For the purposes of this Act “building operations” includes—.

- (a) demolition of buildings;*
- (b) rebuilding;*
- (c) structural alterations of or additions to buildings; and.*
- (d) other operations normally undertaken by a person carrying on business as a builder.*

The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—.

(a) the carrying out for the maintenance, improvement or other alteration of any building of works which—.

(i) affect only the interior of the building, or

(ii) do not materially affect the external appearance of the building, and are not works for making good war damage or works begun after 5th December 1968 for the alteration of a building by providing additional space in it underground;

(b) the carrying out on land within the boundaries of a road by a highway authority of any works required for the maintenance or improvement of the road but, in the case of any such works which are not exclusively for the maintenance of the road, not including any works which may have significant adverse effects on the environment]; .

(c) the carrying out by a local authority or statutory undertakers of any works for the purpose of inspecting, repairing or renewing any sewers, mains, pipes, cables or other apparatus, including the breaking open of any street or other land for that purpose; .

(d) the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such;

(e) the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;

(f) in the case of buildings or other land which are used for a purpose of any class specified in an order made by the Secretary of State under this section, the use of the buildings or other land or, subject to the provisions of the order, of any part of the buildings or the other land, for any other purpose of the same class;

(g) the demolition of any description of building specified in a direction given by the Secretary of State to local planning authorities generally or to a particular local planning authority.

Section 55(2)(d) of the 1990 Act as set out above provides that the use of buildings within the curtilage of a dwellinghouse is not development if used for any

purpose "incidental to the enjoyment" of that dwellinghouse. The Development Control Practice Manual recognises that "incidental to the enjoyment" may be interpreted generously to mean that existing outbuildings within a residential curtilage (as is the case here) may be used for any ancillary residential purpose whatever, for whatever the meaning of "incidental" might be, there is no material change of use provided the premises stay within the same planning unit.

Whilst the previous planning application seeking consent for the establishment of a wholly self-contained unit of accommodation was refused, in the case of this application for a Certificate of Lawfulness the outbuilding will remain reliant on the main house for cooking and laundering facilities, and consequently falls to be regarded as an ancillary suite of accommodation not constituting development in its own right.

With regard to the physical works of conversion, these are largely internal - and thus fall within Section 55(2)(a)(i). The only external alterations are:

(a) the replacement of an existing window in the side elevation - falling within Section 55(2)(a)(ii)

(b) the introduction of a minor soil stack to the rear elevation - again falling within Section 55(2)(a)(ii)

(c) the introduction of patio doors in lieu of the garage door - these lie on the internal (north) elevation of the garage and can be regarded as falling within Section 55(2)(a)(ii), as they will be invisible from the public domain.

NB Even if they did constitute development the work would comprise 'permitted development' under Part 1, Class E of the Schedule to the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008.

PLANNING CONDITIONS PREVENTING THE PROPOSAL

None

ARTICLE 4 DIRECTIONS

None preventing the proposal.

7 Conclusion

Having regard to the above considerations it is concluded that the use of the existing garage building for ancillary accommodation in association with the dwellinghouse known as 28 Wittering Road and the physical works to facilitate the conversion would not amount to development as defined by Section 55 of the Town and Country Planning Act 1990 as detailed above.

8 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **Grant a Certificate of Lawful Development** for application APP/13/00840 as set out in Section 55 of the Town and Country Planning Act 1990 for the following reason:

Havant Borough Council, as Local Planning Authority, certifies that on 22 August 2013 the proposal described in the First Schedule to this certificate in respect of land described in the Second Schedule and edged in red on the submitted Location Plan (1:1250) and Block Plan (1:500) drawing unnumbered, date stamped 22 August 2013 would not have met with the definition of development as defined by Section 55 of the Town and Country Planning Act 1990, and as a result would not require planning permission.

FIRST SCHEDULE:

This certificate relates to the conversion of the existing garage to ancillary accommodation in conjunction with 28 Wittering Road, Hayling Island, PO11 9SP as shown on submitted drawings Proposed Layouts (Scale 1:50) date stamped 28 August 2013 and Proposed Elevations (Scale 1:100) date stamped 28 August 2013.

SECOND SCHEDULE:

28 Wittering Road, Hayling Island, PO11 9SP, as shown edged in red on submitted plan Location Plan (1:1250) and Block Plan (1:500) drawing unnumbered, date stamped 22 August 2013.