
Site Address:	2 Eastoke Avenue, Hayling Island, PO11 9QW		
Proposal:	Temporary storage container.		
Application No:	APP/15/00066	Expiry Date:	29/04/2015
Applicant:	Mme A Fields	Team:	Team 1
Agent:	Mr I Fields	Case Officer:	Sally Smith
Ward:	Hayling East		

Recommendation: **REFUSE PERMISSION**

1 Site Description

The site is a corner plot on the junction of Southwood Road and Eastoke Avenue. 2 Eastoke Avenue is a two storey house with its garden area fronting Southwood Road. There is a low boundary wall around its frontage. The container as shown on the site plan is located adjacent to the wall fronting Eastoke Avenue and with the majority of the container in the garden to the frontage of No 2.

A single storey unit, 2A Eastoke Avenue is attached to the northern side of the property. This was originally part of No 2 but has recently been granted consent as a separate residential unit.

2 Planning History

A number of histories under the 51741 series. the most relevant to this application being:

88/51741/2 - Front extensions and single storey side extension. Permit Jan 1989. Condition imposed that 'The extension hereby permitted shall be occupied only in conjunction with the existing dwelling and at no time shall a separate dwelling be established'.

99/51741/004 - Conservatory which showed the whole application site edged red as 2/2A.

APP/14/00867 - First floor extensions, increase in roof height, extension to garage at no. 2A, replacement garage for conservatory at No.2 with terrace above, new entrance and new vehicular access to Southwood road. withdrawn October 14.

APP/15/00010 - Application for CLU relating to the occupation of 2A Eastoke Avenue. Granted April 15.

APP/15/00412 and 413 - Applications for extensions to 2 and 2A Eastoke Avenue. Currently invalid.

3 Proposal

The proposal is to retain the container for a period of 6 months between 1 Feb and 1 Aug 2015. It is proposed to utilise it for storing building materials and miscellaneous items.

4 Policy Considerations

National Planning Policy Framework 2012

Havant Borough Local Plan (Core Strategy) March 2011
CS16 (High Quality Design)

Havant Borough Local Plan (Allocations) July 2014
AL1 (Presumption in Favour of Sustainable Development)

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

5 Statutory and Non Statutory Consultations

None

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: 8

Number of site notices: None

Statutory advertisement: Not applicable.

Number of representations received: One

Summary:

Neighbour states that the container has been in place for 2 years and so is not temporary.
It is an eyesore in the street scene.

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
- (ii) Impact upon the streetscene
- (iii) Impact upon residential amenity
- (iv) Conclusion

- (i) Principle of development

The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria. The applicant has sought permission for extending the properties under APP/14/00867 but this was withdrawn, due primarily to concerns re overdevelopment and neighbour impact. There is therefore no permission in place which enables a structure to be in place under Schedule 2, Part 4 Class A of the GPDO 2015. There is an invalid application submitted to undertake works but this does not provide the necessary circumstances to allow for the retention of the container; nor does the submission of an application guarantee that a permission will be granted.

(ii) Impact upon the streetscene

The container is very prominent in the street scene, being in the front garden area and being very noticeable particularly on approaching along Southwood Road from the west. There is no screening on the western road frontage but for the low brick wall. It is considered that the container is unacceptably obtrusive within this residential road; its industrial character and appearance being at odds with the predominantly residential character of the locality.

(iii) Impact upon residential amenity

Being within the front garden area the container is particularly visible to adjacent and close neighbours. However, being on the road frontage on a junction there is no direct neighbour in close proximity to its siting so there is not an issue of it being directly overpowering or overbearing in terms of outlook. The impact for neighbours, due to its siting, is the same as for the wider locality with respect to its impact on the streetscene.

(iv) Conclusion

In conclusion, the container is not considered to represent 'permitted development' and in terms of its individual planning merits, with no planning permission in place for development on the site it is considered to constitute an out of keeping and obtrusive feature in a predominantly residential context. The application is acknowledged as being sought for a temporary period only; however on its individual merits the proposal is not acceptable and it is not considered that there are compelling grounds to allow even a temporary consent.

8 Enforcement Considerations

- 8.1 The provision of a container within the frontage of the curtilage of a dwelling is a breach of planning control because it constitutes development within the curtilage of a dwelling for which Planning Consent is required. In view of the conclusion in section 7 of this report that the retention of the container is not acceptable in planning terms, it is necessary to consider the expediency of taking enforcement action.
- 8.2 The National Planning Policy Framework states that enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. However, enforcement action by Local Authorities should be taken where it is appropriate to do so. When considering the merits of taking action, Councils typically look at whether a breach of control unacceptably affects public amenity, or the existing use of the land and buildings merits protection in the public interest. Enforcement action should always be commensurate with the breach of planning control and as such the following must be

considered.

- (i) Alleged breach of Planning Control;
- (ii) Human Rights;
- (iii) Fall back position;
- (iv) Compliance period

(i) Alleged breach of Planning Control

- 8.3 A storage container has been placed within the curtilage of a dwelling house. The installation is not permitted by The Town and Country Planning (General Permitted Development) Order 2015 and Planning Consent is required.
- 8.4 Section 171B of the Town and Country Planning Act 1990 states that an enforcement notice may only be issued within a period of 4 years from the date on which the breach commenced – given the timescales during which the unauthorised development has occurred, it is considered that enforcement action can be taken.
- 8.5 As the container cannot be reduced in size or relocated to a position within the curtilage to reduce its impact it is considered that there are not revisions that could be sought to enable the container to be considered acceptable on the site.

(ii) Human Rights

- 8.6 The Human Rights Act confers a number of rights, of which the following are relevant in this case.

First Protocol, Article 1: The right to peaceful enjoyment of possessions. It is necessary to balance the right to use this land as the owner wishes, against the need to protect the street scene from inappropriate development. The development on the land is contrary to the Council's adopted policies. It is considered that a requirement to secure the removal of the container would be proportionate to the intended objective of the Local Plan and Planning Act to protect the character of the road from inappropriate development.

Article 6: Right to a fair trial. If the recipients of the notice are aggrieved by the Local Planning Authority's (LPA) decision there is the right of appeal to the Planning Inspectorate, which is an independent body. It is therefore considered, that the decision-making process falls within the requirements of Article 6.

Article 14: Prohibition of discrimination. Prohibits discrimination on grounds such as sex, race, colour, language, religion, political opinion, national or social origins, property birth or other status. By taking enforcement action the LPA would be treating the occupiers no differently from any other member of society

(iii) Fall back position

- 8.7 There is no 'fall back' position with regard to this development; the installation of the container within the residential curtilage requires planning consent and, as there is not considered to be a more appropriate siting, there are no alternative options available to the Council. The submission of an application seeking development on the site is not considered sufficient justification to allow for the retention of the container. In the event that planning permission is granted for development and that development is commenced then the applicant can then exercise his permitted development rights

under Schedule 2, Part 4 Class A of the GPDO 2015

(iv) Compliance period

8.8 A compliance period of 2 months is considered to be reasonable in this case.

9 Conclusion

9.1 It is considered that this application should not be permitted just because it is retrospective; had this scheme been submitted for pre-application consultation the applicant is likely to have been advised that Officer support for the container would be unlikely. Whilst the applicant may be seeking a planning permission for development on the site that is not considered sufficient justification for the longer term siting of the container within the property, particularly when its siting is very obtrusive in the street scene. It is therefore concluded that this retrospective scheme must be considered in the same manner as had it been submitted prior to and not in breach of planning control and therefore it should be refused on the grounds that the container is an obtrusive and incongruous structure that is prominent within, and detracts from, the residential character of the street scene. The applicant has sought to retain the container for 6 months, expiring 1 August 2015. It should be noted that, on the basis that the application is refused and enforcement action taken with a two month period for compliance, when allowing for the time taken for the notice to come into effect the period being sought by the applicant will be achieved in practice. In the event that during that period permission is granted for works to the property then the applicant would be able to exercise his permitted development rights for the retention of the container.

9.2 As set out in section 8 above, it is considered expedient to refuse the application and take enforcement action to require the removal of the container; the compliance period for such action to be 2 months.

10 Recommendation

That the Executive Head of Planning and Built Environment be authorised to

A) **REFUSE PERMISSION** for application APP/15/00066 for the following reason:

and

B) In view of it appearing that without the benefit of Planning Permission development has been carried out at 2 Eastoke Avenue which includes the placement within the curtilage of the site of a storage container, the Solicitor to the Council be authorised to issue an enforcement notice under Sections 172 and 173 of the Town and Country Planning Act 1990 (as amended) such as to require the permanent removal of the storage container from the curtilage of the site within a compliance period of 2 months, it being expedient to do so having regard to the reasons and considerations set out in this report.

incongruous feature within the streetscene to the detriment of the visual amenities of the area. The proposal is therefore contrary to policy CS16 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework 2012.