
Site Address:	3 Park Crescent, Emsworth, PO10 7NT		
Proposal:	Application for Certificate of Lawfulness relating to conversion of garage to living accommodation.		
Application No:	APP/13/00585	Expiry Date:	09/08/2013
Applicant:	Mr Hardcastle	Team:	Team 2
Agent:	Mr M Farrer	Case Officer:	Aaron Wright
	M F Designs Ltd		
Ward:	Emsworth		

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

1 Site Description

3 Park Crescent is a detached chalet style bungalow. It has a single detached garage to the south of the dwelling. There is provision for off-street parking to the front of the site.

2 Planning History

None relevant

3 Proposal

Section 192 of the Town and Country Planning Act 1990 allows any person to ascertain whether:

- (a) any proposed use of buildings or other land; or
- (b) any operations proposed to be carried out in, on, over or under land,

would be lawful. He may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

This application is to determine whether the conversion of the garage to ancillary accommodation to dwelling is permitted development. The existing detached single garage would be converted into a study, store and lobby.

4 Statutory and Non Statutory Consultations

None

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: 10

Number of site notices: 0

Statutory advertisement: Not applicable.

Number of representations received: 0

6 Planning Considerations

Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

(i) Whether planning permission is required

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The proposed conversion should be considered against:

- Section 55 (2) (d) of the 1990 Act; and
- Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008, which is an amendment to the Town and Country Planning (General Permitted Development) Order 1995.

Section 55 (2) (d) of the 1990 Act

This Section states that the *"the following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land -*

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".

A number of legal cases have shown that for the purposes of Section 55 (d) (2) "incidental to the enjoyment" may be interpreted generously to mean that outbuildings within a residential curtilage may be used for any residential purpose whatever, for whatever the meaning of "incidental" might be, there is no material change of use. Of course, if the accommodation created constitutes a separate self-contained unit and a separate planning unit, this is a different matter and planning permission may be required.

Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008

The application must also be considered against the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008, which is an amendment to the Town and Country Planning (General Permitted Development) Order 1995.

Part 1, Class E states that:

"The provision within the curtilage of the dwellinghouse of 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 is permitted development".

It is therefore considered that the conversion of the existing detached garage to a study, store and lobby is incidental to the enjoyment of the dwellinghouse and does

not constitute a material change of use. As such, the conversion of the garage to a study, lobby and store is lawful.

7 Conclusion

The proposed development is considered against Section 55 (2) (d) of the 1990 Act and the permitted development tolerances as set out in Part 1, Class E of the The Town and Country Planning (General Permitted Development) Order 2008 (As Amended) and as such would not require planning permission.

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to grant a Certificate of Lawful Development for application APP/13/00585 for the following reasons:

Havant Borough Council, as Local Planning Authority, certifies that on 1 October 2013 the development described in the First Schedule to this certificate in respect of land described in the Second Schedule and edged in red on the plan attached to this certificate would be lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason:

The conversion of the garage for the purposes incidental to the enjoyment of the dwellinghouse as a study, lobby and store within the curtilage of 3 Park Crescent, Emsworth is permitted development by virtue of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 as Amended by the No. 2(England) Order 2008.

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

Existing Floor Plans, Elevations, Sections (Drawing No.100)
Proposed Block Plan, Location Plan Elevations, Floor Plans , Sections
(Drawing No.P_01)

Reason: - To ensure provision of a satisfactory development.