

DELEGATED OFFICER REPORT

PROPOSAL	Lawful Development Certificate relating to proposed single storey side extension.
LOCATION:	43 Starina Gardens, Waterloooville, PO7 8QT
REFERENCE NO:	APP/25/00843
APPLICANT:	Stefania Simion
APPLICATION TYPE:	Lawful development: Proposed use
CONSULTATION EXPIRY DATE:	30/11/2025
APPLICATION EXPIRY DATE:	15/12/2025
WARD:	Cowplain
SUMMARY RECOMMENDATION:	Refuse

1 **Site Description**

The site contains a two-storey residential dwelling set in a block of four residential properties.

2 **Planning History**

Is there any planning history relevant to the current application?

No

3 **Proposal**

Lawful Development Certificate relating to proposed single storey side extension.

4 **Policy Considerations**

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

5 **Statutory and Non Statutory Consultations**

Not relevant to this application

6 **Community Involvement**

Whilst publicity procedures do not apply to Certificate of Lawfulness applications for proposed uses or development, the Council has received two representations objecting to the proposals on the following grounds:

- Loss of privacy arising from window proposed in rear elevation of proposed extension

Officer comment: *As this is an application for a Lawful Development Certificate the legal test for the Council is to consider whether the proposals need planning permission or are permitted development. The Council is not able to assess the planning merits of the proposed development.*

7 Legal 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) Whether the development would require planning permission

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 **Schedule 2, Part 1, Class A** of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) with regard to the proposed single storey side extension. The relevant clauses are set out below, with a commentary as to whether the application proposals are considered to comply with them.

7.5 *A.1 Development is not permitted by Class A if—*

(a) Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);(General Permitted Development) (England) Order 2015 (changes of use).

Not applicable to this application

(b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

Met

(c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse.

Met

(d) the height of the eaves of the extension will not exceed the highest part of the eaves of the existing dwellinghouse.

Met

(e) the enlarged part of the dwellinghouse would extend beyond a wall which—

(i) forms the principal elevation of the original dwellinghouse; or

(ii) fronts a highway and forms a side elevation of the original dwellinghouse;

Not Met – the extension would clearly sit forward of the existing bay window projection which fronts the adopted footway lying to the west of the dwelling. Furthermore, given the design characteristics of the dwelling and its

presentation to the street it is considered that this elevation should be regarded as the principal elevation of the dwelling.

(f) *subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—*

(i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height; –

Not applicable.

(g) *for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—*

(i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height; -

Met.

(h) *the enlarged part of the dwellinghouse would have more than a single storey and—*

(i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or

(ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse;-

Not relevant in this application as the proposed extension is single storey.

(i) *the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres -*

Met - the eaves height would not exceed 3 metres.

(j) *the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—*

(i) exceed 4 metres in height,

(ii) have more than a single storey, or

(iii) have a width greater than half the width of the original dwellinghouse;-

Not relevant in this application as the development would be forward of the principal elevation (see (e) above).

(ja) *any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j); -*

Not Met – clause (e) is not met.

- (k) *it would consist of or include—*
- (i) the construction or provision of a verandah, balcony or raised platform,*
 - (ii) the installation, alteration or replacement of a microwave antenna,*
 - (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or*
 - (iv) an alteration to any part of the roof of the dwellinghouse.; -*

Met - the proposal does not include the construction or provision of a veranda, balcony or raised platform. It does not include the installation, alteration or replacement of a microwave antenna; and does not include the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or the alteration to any part of the roof of the dwellinghouse

- (l) *the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)-*

Met - the dwellinghouse has not been built under Part 20 of this Schedule (construction of new dwellinghouses).

8 Conclusion

- 8.1 Under Schedule 2, Part 1, Class B of the The Town and Country Planning (General Permitted Development) Order 2015, as amended, it is considered that the proposed single storey side extension falls outside of the Permitted Development criteria and therefore planning permission is required and the certificate of lawfulness must be refused.

9 RECOMMENDATION:

That the Development Manager be authorised to **REFUSE A CERTIFICATE OF LAWFUL USE** for application APP/24/00558 for the following reason:

The development would not meet the criteria set out in The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), in that the enlarged part of the dwellinghouse would extend forward of the existing bay window projection which fronts the adopted footway lying to the west of the dwelling. Furthermore, given the design characteristics of the dwelling and its presentation to the street it is considered that this elevation should be regarded as the principal elevation of the dwelling. The proposed development therefore fails to meet the criteria set out under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 1, Class A (e) and (ja).

FIRST SCHEDULE:

This decision relates to the following development:

Proposed single storey side extension. as described in the written particulars, plans and other documents submitted with your application.

SECOND SCHEDULE:

This decision relates to land at 43 Starina Gardens, Waterloooville, PO7 8QT as shown edged red on the submitted Location Plan.