

DELEGATED OFFICER REPORT

PROPOSAL	Application for Lawful Development Certificate for the existing use of the area to the rear of 18-20 Sea Front as a self contained 2 bedroom residential flat.
LOCATION:	18-20 Sea Front, Hayling Island, PO11 9HL
REFERENCE NO:	APP/26/00163
APPLICANT:	Mr Henry Turner
APPLICATION TYPE:	Lawful development: Existing use
CONSULTATION EXPIRY DATE:	13/04/2026
APPLICATION EXPIRY DATE:	05/05/2026
WARD:	Hayling East
CASE OFFICER:	Tina Pickup
SUMMARY RECOMMENDATION:	Grant a Lawful Development Certificate

1 Site Description

- 1.1 The application site relates to a rear, single storey section of the building at 18 – 20 Sea Front. The main front of the building is two storeys with three ground floor commercial units – the amusement arcade and beach café which both closed in 2023 remain vacant; and a general gift shop. At first floor above are two flats, each accessed via external stairs on the side elevations. The site lies adjacent the Lifeboat Inn pub, on the sea front, at Eastoke Corner.
- 1.2 The rear part of the site, originally the rear storage and staff sleepover areas for the front commercial units, was converted to a self-contained 2 bedroom residential flat approximately 13 years ago. This comprises an open plan kitchen and living room, 2 bedrooms and a bathroom. There is a small enclosed, decked, sitting out area between the rear wall and parking area. All windows serving the habitable space are in the northern wall. This application seeks a Lawful Development Certificate for that residential use.
- 1.3 The amended red lined application site shown on the 1:500 Site Plan shows the areas dedicated to the flat the subject of this application, together with a dedicated garage and parking space, and the green area represents the shared access and manoeuvring areas, shared with other flats and businesses.

2. Relevant Planning History

12833/6 – Erection of a block of 3 garages at 18 Sea Front – permitted 21 July 1969 – *no conditions and current application central one of 3*

07/68654/000 – Change of use of rear section of existing shop to a one bedroom self-contained flat. Refused 28/01/2008:

The proposed development would constitute an undesirable over-intensive use of the building which would not provide satisfactory living conditions or visual outlook for

the occupants of the proposed flat. The proposal is therefore contrary to policies D 1 and H2 of the Havant Borough District Wide Local Plan 1996-2011.

3. Proposal

Application for Lawful Development Certificate for the existing use of the area to the rear of 18-20 Sea Front as a self-contained 2 bedroom residential flat.

This is a Section 191 application for a Lawful Development Certificate to establish whether the existing use of the flat as a separate C3 dwelling is lawful. In this case the relevant test is whether the change of use to a single dwelling began more than 4 years before the date of this application – which was valid on 10th March 2026, so before 10th March 2022.

4. Legislation

Town and Country Planning Act 1990

5. Statutory and Non Statutory Consultations

None required for this application type.

6. Publicity and Community Involvement

Not required for Lawful Development Certificate applications, but courtesy neighbour notification has been carried out.

None have been received:

7 Legal Considerations

- 7.1 The proposal is seeking a legal determination as to whether the existing use of the 'flat' as a separate C3 dwelling is lawful or not. The planning merits of the proposal are not for consideration as part of this application type.
- 7.2 The application has been submitted under Section 191 of the Town and Country Planning Act 1990. Section 191(2) states that uses and operations are lawful at any time if:
 - (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
 - (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.
- 7.3 No Enforcement Notice has been served for this site, so (b) is not relevant. Therefore, this application falls to be assessed against criteria (a) above.
- 7.4 The use of the flat as separate independent residential accommodation does constitute development through the material change from ancillary commercial space to a single dwellinghouse.
- 7.5 The relevant time limits for taking enforcement action are set out in section 171B of the Town and Country Planning Act, as amended by the Planning Act 2008

(Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024. The transitional arrangements are such that development becomes immune from enforcement action if no action is taken within 4 years for an unauthorised change of use to a single dwellinghouse where the change took place before 25 April 2024.

- 7.6 Therefore, in this case where the use commenced before 25 April 2024, the relevant time period is 4 years. If it can be demonstrated that the use has occurred continuously for 4 years prior to the date of this application (10/03/2026) then no enforcement action can be taken, and the defined use would be lawful.

Evidence provided

- 7.7 The onus is on the applicant to provide sufficient evidence to support the application and the Planning Practice Guidance states:
In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.
- 7.8 The original submitted evidence took the form of a series of Statutory Declarations from people known to the applicant who had knowledge of the conversion process of the space, dating from 2012. Additionally photographs of family life in the flat were provided. However, it was considered that the photos were just a snap-shot in time and didn't show continuous occupation, and similarly there was a lack of precise details in any of the statutory declarations that proved continuous residential occupation of the flat as they mainly focused on the building works. It was also found that the flat was unknown to the HBC's Council Tax or Street Name and Numbering departments and no Council tax had been paid.
- 7.9 Following a detailed site visit it was apparent the flat is entirely self-contained with its own separate access, with front door behind a gate in the fence to the shared parking and manoeuvring area. The enclosed rear/side garden space is dedicated to the flat which also has use of a single garage and the space in front of the garage. Visually the conversion has occurred to a high standard providing a good quality home with sufficient light and ventilation to main rooms. At the site meeting further evidence was requested to demonstrate continuous family occupation for the past 4 years and possible sources were discussed.
- 7.10 Further evidence was then forthcoming and includes:
- Letter from the family's GP confirming 20 Sea Front flat as place of residence for 13 years
 - EE phone bills in name of applicant for 20 Sea Front dating from March 2022 to May 2026
 - Bank statements in name of applicant for 20 Sea Front from March 2022 to May 2026
 - Credit card statements in name of applicant for 20 Sea Front from February 2022 to May 2026
 - Copy of Driving Licence showing 20 Sea Front as address
 - 7 further/amended Statutory Declarations confirming they have witnessed the family living in the flat continually for 10 years plus
- 7.11 Having reviewed the additional detailed information submitted which includes continuous documents for bills essential to everyday living, covering the relevant 4 year

period, it is considered, on the balance of probabilities, that the flat has been occupied as a family dwelling for over 4 years, sufficient to issue a lawful development certificate.

- 7.12 As part of these investigations Council Tax have been alerted to the flat and with Street Name and Numbering it has been agreed that this flat will in the future be known as Flat 1, 22 Sea Front, Hayling Island, PO11 9HL. It is understood that a Council Tax record has now been set up for the site.
- 7.13 With respect to the precise area used in connection with the flat, the amended 1:500 Site Plan red line includes the area covered by the flat, including outdoor space, and garage and parking space. Therefore, the amended plans are considered accurate to reflect the site to which the lawful development certificate relates.

8 Conclusion

- 8.1 On the balance of probabilities it is considered that the evidence is sufficient to demonstrate that the 2 bedroom self-contained flat at the rear of 18-20 Sea Front, now known as Flat 1, 22 Sea Front, has been continuously occupied as a separate C3 dwelling for the requisite 4-year period predating this application, such that no enforcement action can now be taken against the use. Therefore, a Lawful Development Certificate can be issued in accordance with Section 191 of the Town and Country Planning Act 1990.

9 RECOMMENDATION:

That the Interim Development Manager be authorised to Grant a Lawful Development Certificate for application APP/26/00163:

Havant Borough Council, as Local Planning Authority, certifies that on 10th March 2026 the use described in the First Schedule to this certificate in respect of land described in the Second Schedule was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended) for the following reason:

It appears to the Local Planning Authority that on the balance of probability that the self-contained 2 bedroom residential flat at rear of 18-20 Sea Front has been continuously occupied as a separate C3 dwelling for at least four years prior to the date of this application. In reaching this determination the Authority has considered all evidence and information submitted by the applicant.

FIRST SCHEDULE:

This certificate relates to the following development:

Lawful Development Certificate for the existing use of the area to the rear of 18-20 Sea Front as a self-contained 2 bedroom residential flat (C3), as described in the written particulars; 1:500 Site Plan Drawing number A101 dated 10/07/2026; Floor Plans Drawing number A102 dated 23/02/2026; East and West Elevations Drawing number A103 dated 23/02/2026; and North and South Elevations Drawing number A104 dated 23/02/2026 and other documents and evidence submitted with your application.

SECOND SCHEDULE:

This certificate relates to land at the rear of 18-20 Sea Front, Hayling Island, PO11 9HL as shown edged red on 1:500 Site Plan Drawing number A101 dated 10/07/2026.

OTHER IMPORTANT INFORMATION:

- (1) This Certificate is issued solely for the purpose of Section 191 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.
- (2) It certifies that the use/development specified in the First Schedule taking place on land described in the Second Schedule was/were lawful within the meaning of section 191 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.
- (3) 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.
- (4) Your attention is drawn to the attached information regarding your right to appeal to the Secretary of State if you are aggrieved by the Council's decision.