

DELEGATED OFFICER REPORT

PROPOSAL:	Regularisation of ground floor extension and used for residential purposes. Extension built 10 years ago in materials to match existing.
LOCATION:	105 Nutwick Road, Havant, PO9 2UQ
REFERENCE NO:	APP/26/00299
APPLICANT:	Mr Shawn Lambert
APPLICATION TYPE:	Lawful development: Proposed use
CASE OFFICER:	Robert Riley
APPLICATION EXPIRY DATE:	22/07/2026
WARD:	St Faiths
RECOMMENDATION:	Grant a Lawful Development Certificate

1. Site Description

- 1.1 The application site comprises of a two storey semi detached dwelling that features a front garage and rear extension, with the rear extension being sought to be regularised as part of this application.

2. Planning History

No relevant recent history

3. Proposal

- 3.1 Regularisation of ground floor extension.
Extension built 10 years ago in materials to match existing.

4. Policy Considerations

Relevant legislation and guidance:
Town and Country Planning Act 1990
Planning Practice Guidance, Lawful development certificates, 2014

5. Statutory and Non Statutory Consultations

Not required for a certificate of Lawfulness

6. Publicity and Community Involvement

- 6.1 Not required for this Certificate of Lawfulness application.

7. Legal Considerations

- 7.1 The application is made under Section 191 of the Town & Country Planning Act 1990 as amended and relates to the lawfulness of an existing development. The relevant

legal test is "*balance of probabilities*". Regard cannot be given to any objections to this application on planning merit grounds.

- 7.2 Planning Policy Guidance (PPG) in relation to Lawful Development Certificates advises that the applicant is responsible for providing sufficient information to support an application and the PPG states:

The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence. 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.

- 7.3 The PPG goes on to state that:

A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

- 7.4 The determination of this application therefore turns on the facts of the case and interpretation of the relevant planning law legislation and case law. The Certificate is sought under Section 191 of the Town and Country Planning Act 1990. In this case the requirements are as follows:

(1) If any person wishes to ascertain whether—

(a) any existing use of buildings or other land is lawful;

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act 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.

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

- 7.5 In this instance it is claimed that the rear extension was substantially completed more than four years before the date of the application and that the use began more than 10 years before the date of the application.

8 Assessment

- 8.1 The application is made under Section 191 of the Town and Country Planning Act

1990 (as amended) and relates to the existing lawful rear extension and residential use of the property. In this instance, it is claimed that the rear extension that is sought to be regularised has been in use since 2016 which would exceed the 4 year enforcement time limit period that applies to building works completed before the 25th April 2024. It is also claimed that the use commenced more than 10 years before the submission of this application.

8.2 The agent has provided the evidence listed below.

1. Photo of application site from 2016
2. Photo of application site from 2015
3. Nutwick Composite Photos

8.3 The aerial photograph of 2015 shows no rear extension. The aerial photograph for 2016 shows a rear extension to this residential dwelling. Photographs on Google Earth show that the extension appears to have remained in situ since 2016, albeit some of the aerial photographs are not that clear.

No evidence has been provided as to the use of the extension, other than the undated composite photographs, which indicated it is used for residential purposes. That said, the application relates to a rear extension to a dwellinghouse and therefore, based on the limited evidence available has and continues to be used for residential purposes.

Material for the extension, match those of the main dwellinghouse.

- 8.4 The Local Planning Authority has no contrary evidence of its own. Therefore, based on the evidence submitted, it is considered, on the balance of probability, that the rear extension was built in 2016 and used residential since that time and therefore is considered to be lawful.
- 8.5 The matter has also been subject to consultation with the Councils legal team who have concluded that on the balance of probabilities there is sufficient evidence to show the development is lawful and that the Lawful Development Certificate should be issued.

9. RECOMMENDATION:

That the Interim Development Manager be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/26/00299

FIRST SCHEDULE:

This certificate relates to the following development:

Application for a Lawful Development Certificate for Regularisation of ground floor extension and its residential use. Extension built 10 years ago in materials to match existing as described in the written particulars, plans and other documents submitted with your application received on 04/05/2026.

SECOND SCHEDULE:

This certificate relates to land at 105 Nutwick Road, Havant, PO9 2UQ as shown edged red on the submitted Location Plan received 4 May 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 development specified in the First Schedule taking place on land described in the Second Schedule would have been 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.

Your attention is drawn to the attached information regarding your right to appeal to the Secretary of State for Housing, Communities and Local Government, if you are aggrieved by the Council's decision.