

Officer Report

Application No.	24/0206/FH
Site Address	Eastleigh, St Nicholas Road, Hythe, CT21 6JQ
Officer Name	Danielle Wilkins
Proposal	Lawful Development Certificate (proposed) for access to unclassified road by means of a dropped kerb.

Recommendation

Report Number	RD-434132
Recommended Decision	Recommended to be Lawful
Recommendation Date	26 March 2024

Report

SITE

The application site consists of a terraced dwelling located within the settlement of Hythe, the site is within flood zones 2 and 3 and is identified as being at significant risk of flooding in the councils SFRA up to 2115, the site is also within an area of archaeological potential.

The application building is a two-storey terraced dwelling with an area of hardstanding to the front of the house, separated from the highway by a small ragstone wall.

HISTORY

There is no recent or relevant planning history

PROPOSAL

The application seeks a lawful development certificate for vehicular access onto St Nicholas Road by way of a dropped kerb

CONSULTATION RESPONSES

Not required

REPRESENTATIONS

Not required

PUBLICITY

Not required

RELEVANT POLICIES

The key considerations in determining this application are those set out by Class F of Part 1 of Schedule 2 (hard surfaces incidental to the enjoyment of a dwellinghouse) of the Town and Country Planning (General Permitted Development) (England) Order 2015 and Class B of Part 2 of Schedule 2 (means of access to a highway) of the Town and Country Planning (General Permitted Development) (England) Order 2015.

APPRAISAL

Permitted development is the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (other than by Class A of Part 2).

In this case, the creation of an access would be on to St Nicholas Road, which is an unclassified road according to KCC Highways Gazetteer. In addition, the proposed dropped kerb (means of access to a highway) is also required in connection with development permitted by another Class within Schedule 2. In this case, the existing hardstanding/driveway to the front of the property, which has been in situ for a period of more than 4 years and which constitutes permitted development under Schedule 2, Part 1 Class F of the GDPO. As the proposed means of access is required in conjunction with the existing hardstanding (which is permitted development) the proposed dropped kerb meets the requirements of Part 2, Class B and therefore constitutes permitted development in this instance.

The planning history has been checked and there is no evidence of permitted development rights being removed.

RECOMMENDATION

In light of the above, it is considered the proposal falls within permitted development and a certificate can be issued.

HUMAN RIGHTS

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

PUBLIC SECTOR EQUALITY DUTY

In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

Suggested Informatives (1)

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From the information provided on submitted application form and drawing received on 31/01/2024 and 26/02/2024, the proposed dropped kerb and access to the highway would constitute permitted development by virtue of Class F of Part 1 of Schedule 2 Class B of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.