

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20260458
Location	256 Singlewell Road Gravesend Kent DA11 7RE
Proposal:	Application for a Proposed Lawful Development Certificate; Erection of a single-storey outbuilding in rear garden.
Applicant:	Mr Munvinder Dhariwal
Site Visit	N/A Desktop Assessment

Plans & Documents

Application form
Permitted Development Checklist
Statutory Declaration
Proposed rendered visuals
Existing photo
Drawing no. E116(05)001 (existing plans and elevations)
Drawing no. E116(05)1250 (existing location and block plan)
Drawing no. E116(08)001 (proposed plans and elevations)
Drawing no. E116(08)002 (existing and proposed built plot ratio)
Drawing no. E116(08)003 (existing and proposed south elevations)
Drawing no. E116(08)1250 (proposed location and block plan)

Property Type

The property comprises a two storey, five bedroom, detached dwelling.

Material Consideration

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

Relevant Planning History

20260130	Application for a Proposed Lawful Development Certificate; erection of a single storey outbuilding with roof lights adjacent to existing annexe.	Application Refused	01.04.2026
20250557	Erection of a single storey front extension to an existing outbuilding with roof lights.	Application Refused	15.01.2026

20250547	Change of use of incidental outbuilding for the dwelling to a mixed use Sui Generis building comprising of gym and incidental purposes in relating to the single family dwelling.	Permitted	27.08.2025
20250152	Extension of outbuilding to enclose existing canopy.	Application Refused	10.04.2025
20211562	Proposed extension to summer house.	Permitted	04.03.2022
20211273	Erection of a single storey front extension to existing summer house.	Permitted	13.12.2021
20211246	Application for variation of condition 3 attached to planning permission reference no 20130959 to allow the gym outbuilding to be used for a personal trainers business, Mon - Fri 8am - 8pm.	Granted Temporary Permission	03.12.2021
20211033	Extension and raising part of the roof of existing summer house.	Application Refused	05.10.2021
20150026	Erection of front and side boundary walls with railings and vehicular entrance gates and the widening of the two existing vehicular accesses.	Permitted	20.08.2015
20140597	Application for a non-material amendment to planning application reference 20130959 for the erection of detached outbuilding with canopy in rear garden to replace existing to provide gym, play room/games room and shed; to allow roof height and footprint increase, alteration to the pitch of the canopy incorporating installation of roof lights, installation of two roof lights to outbuilding and also to allow deeper windows which will be frosted.	Approval of Non-Material Amendment	22.07.2014
20130959	Erection of detached outbuilding with canopy in rear garden to replace existing to provide gym, play room/games room and shed.	Permitted	11.12.2013
20070377	Construction of additional vehicular	Permitted	29.06.2007

access on to a classified road to form an 'in and out' driveway.

20061008	Erection of part first floor, part two storey and part single storey rear extension and single storey side extension to form garage, gym, family room, breakfast area and hobby room at ground floor level with two bedrooms, ensuite shower room/wc and two bathrooms/wcs; construction of pitched roof on front elevation to form canopy incorporating an open front porch; new bay window at first floor level on front elevation with new pitched roofs over both front first floor level windows and erection of wall mounted with railings and gates to front boundary of property.	Permitted	11.01.2007
20060132	Erection of two storey side, part first floor, part two storey and part single storey rear extension to form garage, breakfast area, family room and hobby room at ground floor level with two bedrooms each with balcony and en-suite bathroom/w.c. and enlarged bathroom/w.c at first floor level and erection of wall with mounted railings and gates to front of property.	Permitted	23.03.2006
20051103	Erection of two storey side, part first floor and part single storey rear extension to form garage, enlarged kitchen/dining room, family room and hobby room at ground floor level with three bedrooms, two ensuite bathrooms and enlarged bathroom at first floor level and erection of wall and gates to front of property.	Application Refused	07.02.2006
19960566	Erection of single storey rear extension to form enlarged living room, dining room, w.c. and bathroom and erection of a pitched roof canopy at the front.	Permitted	03.10.1996
19860074	Erection of a conservatory at the rear	Permitted	10.04.1986

19850554	Erection of single storey rear extension to form breakfast area and sun room	Permitted	21.08.1985
19490673	Erection of a detached house	Permitted	29.10.1949
19480178	Erection of two blocks of three houses and two blocks of three garages	Permitted	29.11.1948

Officer Assessment

Permitted Developments Rights Restrictions

Article 2 (3) Land (AONB, Conservation Area)	N
Article 4 Direction	N
Permitted Development Rights Removed/Restricted	N

Class E - The provision within the curtilage of the dwellinghouse of –

(a) 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 or enclosure; or

(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

E.1	Development is not permitted by Class E if –	Y/N
(a)	Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use);	N
(b)	The total area of ground covered by building, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);	N – total area shown on the plans is 814sqm, the original house footprint was 84.82sqm which leaves 729.8sqm. The extended dwelling has a footprint of approx. 240sqm minus the original is 155.18sqm. The existing and proposed outbuildings equate to 191.5sqm. Total non-original buildings on site 155.18sqm + 191.5 sqm = 346.68sqm. This equates to approx. 47.5%.
(c)	Any part of the building,	N



	enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;	
(d)	The building would have more than a single storey;	N
(e)	The height of the building, enclosure or container would exceed – (i) 4 metres in the case of a building with a dual-pitched roof, (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of dwellinghouse, or (iii) 3 metres in any other case;	Y. Whilst the plans show the land adjacent to the building at a higher level, this does not appear to be the original ground level. The photo below from 2013 shows the garden gently slopes up to the rear:   Therefore the land upon which the existing outbuilding has been built upon has been raised. From this it would appear that the proposed outbuilding will be at the original land level and therefore the height should be measured from here, not from the adjacent land which is raised. The building is therefore over 2.5m as shown below:



(f)	The height of the eaves of the building would exceed 2.5 metres;	Y – see below:
(g)	The building, enclosure, pool or container would be situated within the curtilage of a listed building;	N
(h)	It would include the construction or provision of a verandah, balcony or raised platform;	N
(i)	It relates to a dwelling or a microwave antenna; or	N
(j)	The capacity of the container would exceed 3,500 litres	N/A
(k)	the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)	N
E.2	In the case of any land within the curtilage of a dwellinghouse which is within – (a) An area of outstanding natural beauty; Development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.	N/A
E.3	In the case of any land within the curtilage of the dwellinghouse	N/A

which is article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.	
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The proposed outbuilding exceeds the height limits set out in paragraphs (e) and (f) of Article 3, Part 1, Class E of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Incidental Need

In addition to the above Class E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 permits the provision of buildings incidental to the enjoyment of the dwellinghouse.

The Technical Guidance for Permitted development rights for householders (2019) states the following:

Class E sets out the rules on permitted development for buildings etc within the curtilage of a house (see page 7). Buildings which are attached to the house are not permitted under Class E (they would be subject to the rules in Class A). Buildings under Class E should be built for purposes incidental to the enjoyment of the house. Paragraph E.4 of Class E indicates that purposes incidental to the enjoyment of the house includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the house.

But the rules also allow, subject to the conditions and limitations below, a large range of other buildings on land surrounding a house. Examples could include common buildings such as garden sheds, other storage buildings, garages, and garden decking as long as they can be properly be described as having a purpose incidental to the enjoyment of the house. A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen.

This guidance therefore advises that Class E would only apply to outbuildings that can be 'properly described as having a purpose incidental to the enjoyment of the house.'

The property already contains a substantial outbuilding that has a use as a gym between the hours of 8am to 8pm during the week and an incidental use to the main dwelling outside of those hours and at the weekends (approved under reference 20250547). The dwelling is substantial with a footprint of approximately 240sqm and contains five bedrooms, living room, study, dining room, family room, hobby room and a kitchen/breakfast room. There is therefore a question as to why this additional building is required for a purpose incidental to the enjoyment of the dwellinghouse.

The Emin v Secretary of the State for the Environment and Mid Sussex District Council [1989] JPL 909 case established that, in the consideration of the term 'incidental to the enjoyment of the dwellinghouse', there should be some connotation of reasonableness in the circumstances of each case and should not be based solely on the unrestrained whim of a householder. However the planning statement does not sufficiently address how this application for a lawful development certificate is not submitted on the unrestrained whim of

the householder. Whilst it states that the outbuilding will be a prayer and meditation room that is required because the use conflicts with the making of food in the house, it is not clear why this is required now when the house has been in his family's ownership for many years (the 2005 application was submitted by Mr Dhariwal). In addition to this, the applicant has already applied for a detached outbuilding for a use quoted as being incidental but did not elaborate further. The planning statement and additional statement, save for stating that a controlled environment needs to be separate from normal domestic activities including food preparation, do not demonstrate that all or some of the activities could not be provided in the main house or existing outbuildings. It does not address what has changed since permission was granted on 27 August 2025 when the applicant suggested a condition to be imposed on the existing outbuilding to allow it to be used incidental to the main house outside of the gym hours. The question therefore remains why this building is required and why the large existing outbuilding and main house is not meeting this need.

In planning appeal APP/K2230/X/22/3301772 (Cedarwood – appendix 1) the Inspector said that the judgement in *Emin v SSE & Mid Sussex DC* [1989] JPL 909 states an outbuilding must be required for some incidental purpose to be permitted development, but its size is not relevant. It is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwellinghouse and whether the building is genuinely and reasonably required to accommodate the use and achieve that purpose. There is no mention in the Planning Statement to determine whether the building is genuinely and reasonably required to accommodate the use and achieve that purpose. There is nothing to say why the additional floor space is required in a new building and cannot be accommodated in the main dwelling. The approved ground floor plan is shown below and includes a hobby room, study, gym and garage which could provide a prayer room. There is already a gym in the existing building and there is no mention in the application why the gym in the house could not accommodate a prayer/meditation room. Unlike the appeal at Cedarwood, which did find that the outbuilding was not incidental to the dwellinghouse partly due to an existing outbuilding also providing a space incidental to the dwellinghouse, the dwelling is not modest in size and there are multiple habitable rooms which could facilitate multiple activities. Notwithstanding this, the existing outbuilding offers an incidental use outside of the gym hours by the applicants own admission in the Planning Statement for application reference 20250547 as shown below:

- Proposed change of use to Sui Generis.
- Change of use to be permanent
- To allow both incidental use and commercial gym use.
- Proposed operation hours of the gym are 8 am – 8 pm.
- Outside the hours of operation, the outbuilding would be used incidentally to the dwelling.
- Number of clients to be limited to 6 per day with a 10-minute gap in between each client.
- The Applicant also offers group sessions. These will be limited to 2 sessions a week, with a maximum of 4 people per group.
- The Applicant's fiancé also operates out of the Site, but this is on a part-time basis due to other working commitments.
- One designated parking space to the front of the property for clients.
- Provision of one secure cycle storage space in the rear garden.
- There is no proposed built form as part of this application.

The *Emin* case is clear that a proposed outbuilding will not necessarily be required just because the householder says it is and it is for the appellant to show it is reasonably required and designed with incidental uses in mind. The keynote here is 'reasonableness'.

The above principles were reiterated in *Holding v FSS & Thurrock BC* [2004] JPL 1405 and *LB Croydon v Gladden* [1994] 1 PRL 2. In the case of *Holding*, which concerned what might be regarded as a very large incidental building within the curtilage of a dwellinghouse, the Inspector considered that it is reasonable to suppose that the purpose of the permission granted under Class E is to allow for accommodation for hobbies to which people need space in and around their home to be provided without the need for the formality of a planning application. In the *Gladden* case it was held that for a use to be considered incidental to the

enjoyment of a dwellinghouse and exempted from development under s55(2)(d), it must be of a scale and nature that is incidental to the reasonable enjoyment of the normal residential use of the buildings and land which comprise the dwellinghouse and its curtilage.

Notwithstanding the above there has been a history on the site of applying for permission retrospectively, including for a canopy which has now been removed, and the operation of business in breach of planning conditions and therefore, on the balance of probabilities, the proposed building is unlikely to be used as incidental to the main dwelling.

Recommendation: <u>Refuse</u> Lawful Development Certificate

The proposed outbuilding exceeds the height limits set out in paragraphs (e) and (f) of Article 3, Part 1, Class E of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended and planning permission is required.

Insufficient evidence has been presented to establish that the proposed building would be reasonably required for purposes incidental to the enjoyment of the main dwellinghouse and that the main dwellinghouse cannot provide this accommodation. The development is therefore not permitted under Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and planning permission is required.

Case Officer:	Mrs Alison Webster	Team Leader:	Richard Hart
Signed:		Signed:	<i>R Hart</i>
Dated:	29th June 2026	Dated:	30th June 2026