

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20240791
Location	5 Ferndale Road Gravesend Kent DA12 5AF
Proposal:	Application for a Lawful Development Certificate in respect of erection of a detached outbuilding in garden.
Applicant:	Mr Tuffield
Site Visit	N/A Desktop Assessment

Plans & Documents

- Application form;
- Drawing no. 01 – Site Location Plan Proposed Outbuilding;
- Drawing no. 02 – Outbuilding – Block Plan & Elevations As Existing; and
- Drawing no. 03A – Outbuilding – Block Plan & Elevations As Existing.

Property Type

The property comprises a terraced dwelling.

Material Consideration

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

Relevant Planning History

Reference	Description	Decision	Decision Date
20210201	Erection of a single storey rear extension to form family room, kitchen and toilet.	Permitted	31.03.2021
20191152	Single storey rear extension with a depth of 4.100 metres, maximum height of 3.25 metres and eaves height of 3.1 metres.	Prior Approval Is Required & Refused	16.12.2019
20080645	Construction of a dormer extension in the rear roof slope and conversion of roof space into bedroom with ensuite wc/shower room.	Permitted	05.09.2008

Officer Assessment*Permitted Developments Rights Restrictions*

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

The proposed outbuilding stands to be considered under Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

The proposal is for the erection of an outbuilding to form a garden room and therefore it is necessary to determine whether the proposed development complies with the description of permitted development set out in paragraph E of Article 3, Part 1, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. If the development is considered to be covered by Class E, it is also necessary to determine whether the proposed development meets the criteria set out in paragraphs E.1 - E.3 of Article 3, Part 1, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Class E states that the provision, within the curtilage of a dwellinghouse, of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, is permitted development.

There is no statutory definition of “incidental” in the GPDO but the ‘Permitted development rights for householders Technical Guidance’ (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.

The proposed garden room is not primary living accommodation and as such the use of the outbuilding would be incidental to the host dwelling. In respect of size the proposed outbuilding would have a footprint of 21.2 sq. m and the host dwelling has a footprint of 65.6 sq. m and as such in respect of size the proposed outbuilding is also considered to be incidental to the host dwelling. The proposed outbuilding therefore meets the description of development set out in paragraph E of Article 3, Part 1, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. It will now be assessed whether the outbuilding meets the criteria set out in paragraphs E.1 - E.3 of Article 3, Part 1, Class E of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

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
(c)	Any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;	N
(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;	N – Total height of building from ground level of top of parapets would be 2.5m in height
(f)	The height of the eaves of the building would exceed 2.5 metres;	N – Height of eaves would be 2.4m
(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;	N/A

	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.	
E.3	In the case of any land within the curtilage of the dwellinghouse 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.	N/A

The proposed outbuilding complies with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended and as such planning permission is not required and a Lawful Development Certificate can be granted.

Recommendation: Grant Lawful Development Certificate

Case Officer:	Ms Rebecca Harrison	Team Leader:	Mrs Faye Walsh
Signed:	<i>Rebecca Harrison</i>	Signed:	
Dated:	25th October 2024	Dated:	28 October 2024