

PLANNING STATEMENT

Clements Reach Farmhouse, Shipley Hills Road

PLANNING STATEMENT

Certificate of lawful development for a proposed use for (i) a double storey rear extension (Class A), together with (ii) erection of two detached outbuildings and a swimming pool (Class E)

Clements Reach Farmhouse

Priya Bajwa

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OUR REF: 0209.01.RPT M26

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Introduction

Section 1

- 1.1 This statement has been prepared by Tetlow King Planning on behalf of Priya Bajwa (hereafter “the applicant”) to accompany a certificate of lawful development for proposed use for (i) a double storey rear extension (Class A), together with (ii) erection of three detached outbuildings and a swimming pool (Class E) (hereafter referred to as “the proposals”) at Clements Reach Farmhouse (hereafter referred to as “the site”).
- 1.2 The application consists of the following drawings:
- Location Plan 251029 000 A
 - Existing Block Plan 251029 001 A
 - Proposed Block Plan 251029 002 A
 - Existing & proposed floor plans 251029 003 A
 - Existing elevations 251029 004 A
 - Proposed elevations 251029 005 A
 - Proposed outbuildings 251029 006 A
- 1.3 The details which follow are provided to meet the requirements of Classes A and E of Schedule 2 of Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) England) Order 2015.
- 1.4 This Statement is set out as follows:
- Section 2 - sets out the context of the site and its surroundings;
 - Section 3 - sets out the planning history;
 - Section 4 - sets out the proposed works
 - Section 5 - sets out the permitted development legislation;
 - Section 6 - sets out the planning considerations for the application; and
 - Section 7 - concludes that the proposal meets the requirements under Class E Schedule 2 Part 1 of the GPDO and therefore the application should be granted.

Site location and context

Section 2

- 2.1 The application site is located on the northern side of Shipley Hills Road, approximately 180m west of the junction with Wrotham Road.

Figure 2.1: Site location plan (source: Google maps)



- 2.2 The application site presently consists of a detached two storey dwelling and detached double garage located to the east. There is a vehicular access to the east of the property.
- 2.3 Although not part of the residential curtilage, the land ownership now also includes the fields to the north of the dwelling that extend up to the rears of the single property fronting Wrotham Road located to the north east of the application site.
- 2.4 The application site lies within the Green belt but not within a designated conservation area.

Planning History

Section 3

3.1 The online planning portal provides the relevant planning history as below:

Ref:	Proposal:	Outcome:
19570102	Development of land for residential use	Refused
19860268	Erection of single storey extension on the east elevation to form kitchen diner and single storey extension on the north elevation to form porch and cloakroom	Permitted
19880675	Outline application for the erection of 8 no two storey four and size bedroom houses and formation of a pond and open green area.	Refused
20020235	Erection of a detached double garage on the eastern side of the elevation.	Permitted
20020667	Erection of a detached double garage on the eastern side of the site.	Permitted
20020880	Erection of part two storey and part first floor rear extension to form an enlarged dining room at ground floor level with an enlarged bedroom at first floor level.	Permitted

3.2 It is relevant to note that when the 1986 extension was approved the only conditions imposed related to use of materials, there was no removal of any permitted development rights relating to any other works.

3.3 Similarly, when the garage applications were considered in 2002 the only condition imposed other than the statutory time limit related to use of the garage for either parking of a private motor vehicle or vehicles, or for uses ordinarily incidental to the enjoyment o the private dwelling house.

3.4 When the 2002 extensions were approved again there was no indication of permitted development rights having been removed as the only relevant condition related to materials.

Proposed works

Section 4

- 4.1 The proposals are effectively split into three parts – the rear extension relating to Class A; and the outbuildings and pool under Class E.

Rear extension

- 4.2 The proposal seeks to create a 3m deep rear extension at ground and first floors to create an enlarged living room at ground level, with an additional fourth bedroom (labelled as bedroom 2 on the proposed floor plan) at first floor.

Outbuildings

- 4.3 A total of 3 outbuildings are proposed under this submission.
- 4.4 Outbuilding 1 consists of a building that measures 5m wide by 12m in depth (a total gross external floor area of 60m² and GIA of 50.2 m²) to function as a combined office and workshop space.
- 4.5 Outbuilding 2 consists of a building that measures 6m wide by 12.5m in depth (a total gross external floor area of 75m² and GIA of 64.3m²) to function and would function as a home gym complete with wet room and sauna.
- 4.6 Outbuilding 3 measures 4m wide by 8m depth (a total external footprint of 32 m² and GIA of 26.8m²) and would function as a combined covered BBQ and bar area opening out onto the pool area.

Swimming pool

- 4.7 The swimming pool area measures 5m wide by 10m depth (a total of 50m²).

Class A Permitted Development

Section 5

5.1 The Town and Country Planning (General Permitted Development) (Amendment) England) Order 2015 Class A allows (subject to conditions) the enlargement, improvement or alteration of a house.

5.2 The Order states under part A.1 that development is not permitted where:

*“(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 (change of use);
(b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);*

(c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;

(d) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;

(e) the enlarged part of the dwellinghouse would extend beyond a wall which:

(i) forms the principal elevation of the original dwellinghouse; or

(ii) fronts a highway and forms a side elevation of the original dwellinghouse

(f) the enlarged part of the dwellinghouse would have a single storey and:

(i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height

(g) for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and:

(i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or

(ii) exceed 4 metres in height

Side wall extensions extending beyond rear walls

(h) the enlarged part of the dwellinghouse would have more than a single storey and:

- (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or*
- (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse*
- (i) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres*
- (j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would:*
 - (i) exceed 4 metres in height,*
 - (ii) have more than a single storey, or*
 - (iii) have a width greater than half the width of the original dwellinghouse*

Rear and side extensions

- (ja) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j);*
- (k) it would consist of or include:*
 - (i) the construction or provision of a verandah, balcony or raised platform,*
 - (ii) the installation, alteration or replacement of a microwave antenna,*
 - (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or*
 - (iv) an alteration to any part of the roof of the dwellinghouse.”*

5.3 It then notes at A.2 that:

“In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if -

- (a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;*
- (b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or*
- (c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse;*
- (d) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (b) and (c).”*

5.4 It then notes at A.3 that:

“Development is permitted by Class A subject to the following conditions—

(a) the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

(b) any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be—

(i) obscure-glazed, and

(ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and

(c) where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.”

5.5 Finally, at A.4 it notes:

“(1) The following conditions apply to development permitted by Class A which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g).

(2) Before beginning the development the developer must provide the following information to the local planning authority—

(a) a written description of the proposed development including—

(i) how far the enlarged part of the dwellinghouse extends beyond the rear wall of the original dwellinghouse;

(ii) the maximum height of the enlarged part of the dwellinghouse; and

(iii) the height of the eaves of the enlarged part of the dwellinghouse;

(iv) where the enlarged part will be joined to an existing enlargement of the dwellinghouse, the information in sub-paragraphs (i) to (iii) must be provided in respect of the total enlargement (being the enlarged part together with the existing enlargement to which it will be joined);

(b) a plan indicating the site and showing the proposed development and any existing enlargement of the original dwellinghouse to which the enlarged part will be joined;

(c) the addresses of any adjoining premises;

(d) the developer's contact address; and

(e) the developer's email address if the developer is content to receive communications electronically, together with any fee required to be paid.

(3) The local planning authority may refuse an application where, in the opinion of the authority—

(a) the proposed development does not comply with, or

(b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, the conditions, limitations or restrictions applicable to development permitted by Class A which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g).

(4) Sub-paragraphs (5) to (7) and (9) do not apply where a local planning authority refuses an application under sub-paragraph (3) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.

(5) The local planning authority must notify each adjoining owner or occupier about the proposed development by serving on them a notice which—

(a) describes the development by setting out the information provided to the authority by the developer under paragraph A.4(2)(a);]

(b) provides the address of the proposed development;

(c) specifies the date when the information referred to in sub-paragraph (2) was received by the local planning authority and the date when the period referred to in sub-paragraph (10)(c) would expire; and

(d) specifies the date (being not less than 21 days from the date of the notice) by which representations are to be received by the local planning authority.

(6) The local planning authority must send a copy of the notice referred to in sub-paragraph (5) to the developer.

(7) Where any owner or occupier of any adjoining premises objects to the proposed development, the prior approval of the local planning authority is required as to the impact of the proposed development on the amenity of any adjoining premises.

(8) The local planning authority may require the developer to submit such further information regarding the proposed development as the authority may reasonably require in order to determine the application.

(9) The local planning authority must, when considering the impact referred to in sub-paragraph (7)—

(a) take into account any representations made as a result of the notice given under sub-paragraph (5); and

(b) consider the amenity of all adjoining premises, not just adjoining premises which are the subject of representations.

(10) The development must not begin before the occurrence of one of the following—

(a) the receipt by the developer from the local planning authority of a written notice that their prior approval is not required;

(b) the receipt by the developer from the local planning authority of a written notice giving their prior approval; or

(c) the expiry of 42 days following the date on which the information referred to in sub-paragraph (2) was received by the local planning authority without the local planning authority notifying the developer as to whether prior approval is given or refused.

(11) The development must be carried out—

(a) where prior approval is required, in accordance with the details approved by the local planning authority;

(b) where prior approval is not required, or where sub-paragraph (10)(c) applies, in accordance with the information provided under sub-paragraph (2), unless the local planning authority and the developer agree otherwise in writing.

(12) The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the impact of the proposed development on the amenity of any adjoining premises.”

Class A – planning assessment

Section 6

6.1 As set out above, from a search of the available online planning records it appears that the existing property benefits from retention of its permitted development rights as there is no evidence that these have been removed as a result of any previous applications.

6.2 Accordingly, it is acknowledged that the site affected by the proposed development retains permitted developments rights under Classes A and E of Schedule 2, Part 1. It is therefore necessary to consider the proposals against the specific requirements of Classes A and E of Part 1 as follows:

Assessment – Class A (exclusive of the Class E)

Use

6.3 The dwelling/use was not granted by virtue of Classes G, M, MA, N, P, PA or Q of Part 3 Schedule 2 as per part A.1(a).

Ground cover

6.4 The application site has a total site area of approximately 0.27ha or 2,700m², which is based on the residential curtilage.

6.5 The existing dwelling has a combined footprint of 135.52m², however 43.15m² relates to subsequent extensions and as such for the purposes of part E.1(b) only the original footprint of 92.37m² would be applicable.

6.6 In addition, there is a double garage that was constructed between 2002 and 2003 and has a footprint of 60m².

6.7 Removing only the original footprint of the dwelling leaves the original curtilage of 2,607.63m², which would allow up to 1,303.82m² for 'buildings, enclosures and containers' under the terms of part E.1(b). The proposed extension to the dwelling comprises 18.19m². Combined with the previous extensions and double garage, this equates to a total floor area of 121.34m² as additions, or 4.6% of the curtilage excluding the original dwelling.

6.8 Even if including the original dwelling at a further 92.37m² the combined floor area of buildings still falls well below the 50% threshold of the entire site (the amount being less than 8%).

6.9 The proposal therefore complies with part A.1(b).

Height relative to roof

6.10 The proposed extension is designed to marry in with the roof of the existing gable end such that the ridge height is consistent. Whilst the ridge height of that part of the dwelling sits higher than the hipped section the proposed new extension is no higher than the highest roof part of the original dwelling.

6.11 The proposal therefore complies with part A.1(c).

Height relative to eaves

6.12 Due to the varying roof forms of the property, there is no single consistent eaves throughout. However, the proposed extension maintains the same eaves height as the existing northern most projection to which it joins. Were the eaves to be reduced to the lowest existing feature this would unbalance the design of the building and require a different roof design approach. That is not what is sought by the requirements of part A.1(d), which instead seeks to ensure that any alterations are in keeping. Given the nature of this property, maintenance of a consistent eaves with the relevant projection is correct and ensures that the eaves are not higher.

6.13 The proposal therefore complies with part A.1(d).

Location

6.14 The householder guide in respect of permitted development provides a useful summary of key definitions, noting that the term 'principal elevation' is taken to mean the following:

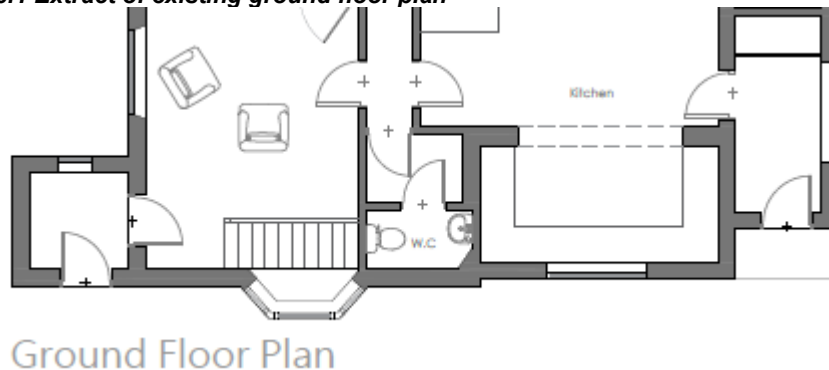
"in most cases the principal elevation will be that part of the house which fronts (directly or at an angle) the main highway serving the house (the main highway will be the one that sets the postcode for the house concerned). It will usually contain the main architectural features such as main bay windows or a porch serving the main entrance to the house. Usually, but not exclusively, the principal elevation will be what is understood to be the front of the house.

There will only be one principal elevation on a house. Where there are two elevations which may have the character of a principal elevation, for example on

a corner plot, a view will need to be taken as to which of these forms the principal elevation.”

- 6.15 In the context of this proposal the principal elevation is considered to be the eastern elevation of the property due to its layout and the way in which the property addresses the site with the entrance porch on the southern side as well as a further doorway to the northern corner, as well as the bay window serving the stairwell.

Fig 6.1 Extract of existing ground floor plan



- 6.16 The proposed extension is therefore not located on a principal elevation of the original dwellinghouse, although it is located such that it fronts a highway when forming a side elevation to the original dwellinghouse. The extension does not however extend beyond the original wall such that it would result in the need for planning permission.
- 6.17 The proposal therefore complies with part A.1(e).

Storey height

- 6.18 The proposed two storey extension extends beyond the rear wall of the original dwelling by a maximum of 3m such that it falls within the maximum size permitted under part h(i).
- 6.19 The proposed extension is not within 7m of any boundary opposite the rear of the original property.
- 6.20 The proposal therefore complies with part A.1(h).

Curtilage

- 6.21 The site layout plan demonstrates that the building is more than 2 metres from the respective side and rear boundaries.
- 6.22 The proposal therefore complies with part A.1(i).

Side elevation

- 6.23 This is not relevant as the application relates to a rear extension despite the way that the property might appear to address the street.

Class E Permitted Development

Section 7

7.1 The Town and Country Planning (General Permitted Development) (Amendment) England) Order 2015 Class E allows (subject to conditions) 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.

7.2 The Order states under part E.1 that development is not permitted where:

- “a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);*
- b) the total area of ground covered by buildings, 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);*
- 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;*
- d) the building would have more than a single storey;*
- 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 the dwellinghouse, or*
 - (iii) 3 metres in any other case.*
- f) the height of the eaves of the building would exceed 2.5 metres;*
- g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;*
- h) it would include the construction or provision of a veranda, balcony or raised platform;*
- i) it relates to a dwelling or a microwave antenna; or*
- j) the capacity of the container would exceed 3,500 litres.”*

7.3 In addition to the above, E2 states that:

- “In the case of any land within the curtilage of the dwellinghouse which is within:*
- a) an area of outstanding natural beauty;*
- b) the Broads;*
- c) a National Park; or*

*d) a World Heritage Site,
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.”*

7.4 E3 also goes on to state that:

“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.”

7.5 Article 2(3) land is defined as being the National Parks, the Boards, Areas of Outstanding Natural Beauty, Conservation Areas, and World Heritage Sites. The site is not within article 2(3) land and as such the criteria is not applicable.

7.6 The interpretation of Class E (E.4) states that:

“For the purposes of Class E, “purpose incidental to the enjoyment of the dwellinghouse as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.”

7.7 This can also include a large range of other buildings on land surrounding a house such as garden sheds, storage buildings, and garages so long as they can be described as being genuinely incidental to the enjoyment of a dwelling. Self-contained accommodation or the use of a building for primary living accommodation does not fall within an incidental use.

Class E – planning assessment

Section 8

Use

- 8.1 The dwelling/use was not granted by virtue of Classes G, M, MA, N, P, PA or Q of Part 3 Schedule 2 as per part E.1(a).

Ground cover

- 8.2 The application site has a total site area of 0.27ha or 2,700m², which is based on the residential curtilage. The implications of the proposed Class A extension have been considered above already such that they would amount to a total coverage of the site, exclusive of the original building, as 4.6%.
- 8.3 The proposed new outbuildings having a combined proposed external total floor area of 183m² (the combined GIA is 141.3 m²), plus an additional 50m² in respect of the swimming pool, such that the overall new build elements total some 233m².
- 8.4 Combined, that is to say with the Class A proposal and previous extensions, this equates to a total floor area of 353.61m² as additions, or 13.6% of the curtilage excluding the original dwelling.
- 8.5 Even if including the original dwelling at a further 92.37m² the combined floor area of buildings falls below the 50% threshold of the entire site (the total being 16.5%).
- 8.6 The proposed layout plan submitted with this application (drawing ref: 251029 002 A) also indicates patios and driveways to demonstrate that even if those elements were factored into the assessment of coverage (to which they are not as it only relates to buildings, enclosures or containers) the proposals would still be below the 50% threshold for coverage.
- 8.7 The proposal therefore complies with part E.1(b).

Location

- 8.8 The proposed outbuildings and swimming pool are located behind the principal elevation of the original dwellinghouse such that there is no conflict with part E.1(c).

Height

- 8.9 The proposed buildings are designed as single storey structures with a pitched roof. In respect of heights the following are noted:

Outbuilding	Slab to ridge height	Slab to eaves height (top)
Outbuilding 1	3.769m	2.488m
Outbuilding 2	4m	2.488m
Outbuilding 3	3.93m	2.5m

- 8.10 The site layout plan demonstrates that no building is within 2m from the respective side and rear boundaries. Moreover, this confirms that it is not only the building façade but also the eaves that sit outside of the 2m buffer so as to ensure no ambiguity with the requirements.
- 8.11 The proposal therefore complies with parts E.1(d), (e) and (f).

Heritage

- 8.12 The building is not situated within the curtilage of a Listed Building so as not to conflict with part E.1(g).

Veranda etc

- 8.13 The proposed building does not include the construction of any raised platform as the indicated patio area shown on the layout plan is to be provided at grade level.

Protected area

- 8.14 The application site is not situated with an AONB, the Broads, National Park; or a World Heritage Site so there is no conflict with part E.2.

Incidental use

- 8.15 When considering the matter of incidental use, it is relevant to have regard to the usual meaning of the word. In a dictionary sense it commonly means

“Of a minor, casual, or subordinate nature.”

- 8.16 In the planning sense it generally means that any use must be physically connected with the occupation of a dwelling so long as that use is subordinate and does not amount to residential living.
- 8.17 The element where a judgement arises is when having to determine whether or not such incidental uses become more than subordinate by reason of size or duplication of a use that may be found within the main dwelling. This approach has been considered in various judgements that do not need revising, save for the fact that each

case needs to be considered on its merits, and it is important that size alone is not a determinative matter. It is also important to ensure that any activity taking place is personal and/or a hobby as opposed to any commercial activity. Summarised below are some relevant appeal decisions over the last few years where the matter of incidental use has been considered.

- **APP/J1535/X/24/3356423** - The development for which an LDC is sought is construction of swimming pool building with gym and plant room.

6. The judgement in *Emin v SSE* [1989] JPL909 confirmed that regard should be had not only to the use to which the building would be put, but also to the nature and scale of that use in the context of whether it was for a purpose incidental to the enjoyment of the dwellinghouse. The physical size of the building in comparison to the dwelling might be part of that assessment but is not in itself conclusive. The fundamental question is whether the building is genuinely and reasonably required or necessary to accommodate the proposed use and thus to achieve the intended purpose.

7. A swimming pool is expressly referred to in Class E as being a use that is for a purpose incidental to the enjoyment of the dwellinghouse, and the Council has not sought to suggest otherwise. The Council has also not sought to question the size of the proposed swimming pool or that a gym is also for a purpose incidental to the enjoyment of the dwellinghouse. The proposed building would be no larger than is necessary to accommodate the incidental uses and the necessary plant room and other ancillary accommodation.

9. On the Appellants evidence the two-storey dwelling has a footprint of 133 square metres which will be increased to 223 square metres. The proposed single storey building would have a footprint of 123 square metres and, just as importantly, would be erected in a plot that extends, overall, to nearly one hectare. Comparatively, the proposed building would be commensurate in scale to the dwellinghouse, with or without planned extensions. The proposed building is for purposes incidental to the enjoyment of the dwellinghouse and would therefore be development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

- **APP/P4225/X/24/3352705** - The development for which a certificate of lawful use or development is sought is a detached building to house swimming pool.

12. In terms of the proposed building before me, given the size of the plot and the absence of any other built form within the rear garden of the property, I do not find

the overall size and scale of the building to be excessive. The rooms containing the sauna, WC and changing room, storage, and pump rooms are all modest in size and could not realistically be made much smaller. Similarly, the swimming pool itself is of reasonable size for a private residential dwelling and the buildings overall height would not exceed 2.5 metres. The swimming pool and other facilities in the building would be for the personal use of the appellant and his partner.

13. The footprint of the building would be similar to that of the existing dwelling, however in my view the intended uses are incidental to the enjoyment of the dwellinghouse, and the scale of the outbuilding is no more than it needs to be. There is also no evidence to indicate that the proposed building rests on the “whim” of the appellant. Accordingly, I am satisfied on the evidence available to me that, at the time of the application, the proposed building would be lawful under Class E of the GPDO.

- **APP/T5150/X/24/3340908** - *The development for which a certificate of lawful use or development is sought is single-storey outbuilding for ancillary use to main dwelling.*

16. Notwithstanding my finding above, Class E only grants planning permission for buildings which are required for a purpose incidental to the enjoyment of the dwellinghouse. The test is whether the proposed building is genuinely and reasonably required or necessary in order to accommodate the proposed use or activity and thus achieve that purpose. Size is a relevant but not conclusive factor in determining whether the proposal would be incidental to the use of the main dwellinghouse.

22. While I must be satisfied of the lawfulness at the time of the application, I have seen nothing in the evidence which leads me to conclude that the outbuilding is not for purposes which are incidental to the enjoyment of the dwellinghouse. Although the space provided by the proposed building would be generous, I find, on the balance of probabilities, that the building is genuinely and reasonably required or necessary for purposes incidental to the enjoyment of the dwellinghouse.

- **APP/Y3615/X/24/3340338 PP/Y3615/X/24/3340338** - *The development for which a certificate of lawful use or development is sought is ‘Single storey outbuilding containing a garage, property entrance, study and swimming pool with materials and glazing to match the existing building. The roofline to follow*

the fall of the land to ensure a maximum height of the building from ground level is 2.5m at all points. Apart from the garage, which is sloping internally, the proposed ground floor is cut into the slope of the land. The principal elevation of the existing building, where the front door is located, is the east elevation.'

8. The Government's Technical Guidance advises that a large range of buildings can fall within Class E, including garden sheds, other storage buildings and garages, as long as they can properly be described as having a purpose incidental to the enjoyment of the dwelling. It further advises that the term 'incidental' does not 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.¹

9. Established case law confirms that in the context of a dwelling, 'required' for an incidental purpose should be interpreted as 'reasonably required' and does not rest on the unrestrained whim of a householder. The physical size of an outbuilding, alone or in comparison to a dwelling, might be an important consideration but is not by itself conclusive. It is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwelling and evaluate whether the outbuilding is genuinely and reasonably required in order to accommodate the proposed use or activity and thus achieve that purpose.²

10. The outbuilding would be 28.19m wide and 10.27m deep and would provide a study, a covered entrance, a garage and a covered swimming pool. Such activities can all reasonably be regarded as being subordinate to and connected with the running of the dwelling and as such, incidental to its enjoyment. None of those activities would be part and parcel of or integral to the ordinary use as a dwelling. The Council did not seek to argue otherwise.

11. The study would have a floor area of around 28m². For a home office or private study, this does not seem unusually large. A floor area of such size would allow for ease of provision of a desk and for accommodating stored books and folders, along with other office-related furniture and equipment, including for example a printer/scanner, chairs and shelving. It would also provide for a comfortable working environment, with good circulation space. It is unlikely that the study could be significantly reduced in size without compromising its efficient use and/or resulting in a more cramped and congested feel for users. Accordingly, the study

would be of a reasonable size, having regard to what would be necessary to achieve the intended purpose.

12. The study floor area would be around half that of the ground floor of the dwelling, also equating to almost double the floor area of the living room. Even so, at around 5m away the study would be located a considerable distance from the dwelling. The extent of the physical separation from facilities required for day-to-day private existence in the dwelling, including the kitchen, dining area, WC and bathroom, would make it relatively inconvenient to utilise the study as part of the primary living accommodation. Accordingly, in my view there is a limited prospect of the study being put to other than an incidental use. This together with my other findings set out above also means that the proposal is distinguishable on its facts and circumstances from those in the appeal decision referred to.³

14. Accordingly, based on the available evidence, as a matter of fact and degree and on the balance of probability, the outbuilding would not be unusually or unreasonably large having regard to the incidental roles in relation to the dwelling it is intended to serve and it would be genuinely and reasonably required for purposes incidental to the enjoyment of the dwelling. This means that paragraph E.(a) would be satisfied. Furthermore, the outbuilding would satisfy the relevant size, height and locational limitations in paragraphs E.1 to E.3 of Class E.

- **APP/Z3825/X/22/3310916** - The development for which a certificate of lawful use or development is sought is described in the application form as ‘creation of an outbuilding and internal alterations’.

6. The proposed outbuilding would comprise 4 rooms which would be used as domestic storage space, home office space, and a workshop for woodworking and furniture restoration. The tools and materials associated with woodworking and furniture restoration, which are hobbies of the appellant, include table saws, workbenches, sanders, a pillar drill, and sheet timber. The proposed home office space would be used by 2 occupants of the house. Gardening tools and machinery, and other domestic items, such as a lawn mower, leaf blower, and children’s bicycles would also be stored within the proposed outbuilding.

7. The size, layout and overall design of the proposed outbuilding would all be commensurate for its purpose, even when accepting that its footprint would be greater than that of the house and an adjacent garage building. The proposed outbuilding would occupy a small proportion of the sizeable plot, and would have

a close, direct relationship with the house. As a single storey building, its character, size and use would all be subservient to the 2-storey house.

8. Taking the size and layouts of the house and its plot into account, the proposed outbuilding would be reasonably required to provide space for domestic storage, 2 people working from home, and woodworking hobbies. The proposed outbuilding is not excessive in size for those purposes, the scale and nature of which would be incidental to the enjoyment of the dwellinghouse as such.

9. The evidence demonstrates, on the balance of probabilities, that the proposed outbuilding would accord with the planning permission granted by Article 3(1) and Class E, Part 1 of Schedule 2 of the GPDO. The proposed outbuilding would therefore be lawful.

- **APP/T2405/X/23/3320933** - *The development for which a certificate of lawful development is sought is a new outbuilding to accommodate garaging, storage, workshop, home office and gym.*

10. The appellants contend that the proposed uses would be incidental to the enjoyment of the dwellinghouse. The Council accept that an outbuilding containing the uses proposed could be considered incidental to the enjoyment of a dwellinghouse in principle. However, their concerns are in respect of the scale of the outbuilding and its location away from the main house. Their Statement of Case specifically identifies the footprint of the proposed outbuilding being greater than the footprint of the main house and, thus, would not be commensurate to it in terms of size and scale.

14. When the incidental uses are combined into one building, I acknowledge that the outbuilding is large. However, there is no limit to the size of the outbuilding when compared to the host dwelling in the GPDO. Furthermore, there is no information in the case law highlighted that suggests a building cannot be incidental when the footprint is greater in size than the host dwelling. Class E of the GDPO does not seek to control the position of outbuildings within the curtilage.

15. The physical size is of some relevance, but that should not be the only consideration, and is most relevant when considering the scale and nature of the activities proposed in the outbuilding. For example, if the outbuilding is larger than the dwelling but is only proposed for storage of a single car, then it could be concluded that the size is based on unrestrained whim of the appellants rather than what is reasonably required for the incidental use. The appellants, however,

have clearly detailed why the size of the outbuilding is reasonably required when considering how it will be used.

16. Accordingly, I accept that the proposed building is large, but it complies with the limitations set out in E.1 to E.3 of Class E(a) as well as being subordinate to the dwelling in land use terms. I have taken account of the Council's concerns over the size and location relative to the host dwelling but based on the detailed evidence submitted with the appeal, I am satisfied that the use of the outbuilding is incidental to the enjoyment of the dwellinghouse, and the size is reasonably required. Consequently, the proposed outbuilding would be lawful and falls within Schedule 2, Part 1, Class E of the GPDO.

- 8.18 In terms of the overall physical size, clearly the cumulative effect is substantial with the 3 outbuildings amounting to a footprint greater than the current dwelling, or even the enlarged dwelling taking account of the proposed Class A extension (under that assessment the proposed outbuilding would amount to approximately 120% of the dwelling. However, as noted above size is only one part of the assessment and the physical need and purpose for each outbuilding needs to be considered.

Outbuilding 1

- 8.19 This outbuilding functions as a joint workshop space and home office. The current layout of the main dwelling lacks any meaningful space that can be readily purposed as a home office to allow the applicant to effectively work from home in a suitable environment. The office element is suitably sized to provide for 2 designated work spaces with appropriate space for additional storage and seating.
- 8.20 The space would also provide ample room for the applicants' children to utilise for school homework as they grow up given the space available within the main family home. This is relevant given the close relationship between the proposed outbuilding and the main dwelling, meaning it would function well for the varied uses.
- 8.21 The office space would only be purposed for home working as opposed to any formal commercial space that would not be deemed incidental to the main dwelling.
- 8.22 Likewise, the workshop space would be multipurpose to allow for storage of various equipment to maintain the residential grounds as well as a general workshop space for creative purposes. Again, such uses would always be incidental to the main dwelling and not function for commercial purposes.

Outbuilding 2

- 8.23 This building is designed to provide a large single space room for use as a home gym to meet the needs of the wider family. The building provides a large multi-purpose gym area to allow for free weights and various other equipment along with the associated wet room and sauna to allow for personal hygiene without the need to return to the main dwelling.
- 8.24 A pump room is also included for the purposes of maintaining the outdoor swimming pool that is also proposed.
- 8.25 The home gym is no intended for anything other than personal use incidental to the main dwelling given the family needs for those residing at the property.

Outbuilding 3

- 8.26 This final outbuilding provides for a well-designed outdoor entertaining space that is well connected to the proposed swimming pool and enables the provision of an appropriately sized bar area as well as covered BBQ/outdoor kitchen space.

Conclusion

Section 9

- 9.1 It has been demonstrated that the proposed extension would meet all relevant criteria under Class A of Schedule 2 of Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) England) Order 2015 and as such the certificate of lawfulness should be granted.
- 9.2 It has been demonstrated that the proposed outbuildings would meet all relevant criteria under Class E of Schedule 2 of Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) England) Order 2015 and as such the certificate of lawfulness should be granted.
- 9.3 Accordingly, we submit that the certificate be issued for the proposed development.