

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20240092
Location	Whitegates Old Watling Street Higham Rochester
Proposal:	Application for a Proposed Lawful Development Certificate in respect of erection of an outbuilding with roof lights.
Applicant:	Mr J Batchelor
Site Visit	N/A Desktop Assessment

Plans & Documents

- Application form;
- Drawing no. 7321-P-01 Issue D – Proposed Plans and Elevations;
- Drawing no. 7321-P-02-1 Issue A – Existing Block Plan;
- Drawing no. 7321-P-03 Issue A – Site Location Plan;
- Drawing no. 7321-P-02 Issue A – Proposed Block Plan.

Property Type

The property comprises a detached dwelling permitted under permission ref. 20190996.

Material Consideration

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

Relevant Planning History

Reference	Description	Decision	Decision Date
20190996	Demolition of an existing dwelling and workshop-building and the erection of a replacement five bedroom dwelling, garage and associated landscaping.	Permitted	19.11.2019

Officer Assessment

Permitted Developments Rights Restrictions

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

	only Classes Schedule 2, Part, Classes A & B.
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The proposal is for the erection of an outbuilding to form a games room, kitchen and wc 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 outside kitchen, games room and wc. are 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 86.1 sq. m and the host dwelling has a footprint of 303 sq. 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;	(i) N - it would be 4m in height. (ii) N – outbuilding would be set in 3.1m from nearest boundary. (iii) N/A
(f)	The height of the eaves of the building would exceed 2.5 metres;	N – eaves would be 2.4m high.
(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	N/A

	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:	Miss Faye Hobbs
Signed:		Signed:	
Dated:	27th March 2024	Dated:	27 March 2024