

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20240662
Location	92 St Dunstans Drive Gravesend Kent DA12 4BQ
Proposal:	Application for a Proposed Lawful Development Certificate in respect of demolishing garden shed and the erection of a single storey flat roof rear extension and the erection of a single storey annexe building with dual pitched roof.
Applicant:	Mrs Bisola Agbaje
Site Visit	N/A Desktop Assessment

Plans & Documents

Application Form;
Block Plan – Existing (received on 23.07.24);
Block Plan – Proposed (received on 23.07.24);
Site Location Plan (received on 18.07.24);
Drawing No. 492.1510 – Elevations and Floor Plans – Existing; and
Drawing No. 492.1520 – Elevations and Floor Plans – Proposed.

Property Type

92 St Dunstans Drive is a two storey mid terraced property.

Material Consideration

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

Relevant Planning History

No relevant history.

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 A - The enlargement, improvement or other alteration of a dwellinghouse

A.1	Development is not permitted by Class A if –	Y/N
(a)	permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use)	N
(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)	N
(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	N
(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	N
(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	N N
(f)	subject to paragraph (g), 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	N 3.00m N 2.75m
(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;	N/A N/A
(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;	N/A
(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	N 2.75m
(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,	N/A

	(ii) have more than a single storey, or (iii) have a width greater than half the width of the original dwelling; or	
(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);	N Plans show existing conservatory is to be demolished
(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	N N N N
(l)	the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)	N
A.2	In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if –	Y/N
(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;	N/A
(b)	the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or	N/A
(c)	the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.	N/A
(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).	N/A
A.3	Development is permitted by Class A subject to the following conditions –	Y/N
(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;	N This information has not been included
(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	N/A

(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.	N/A
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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.

Incidental to the dwellinghouse

Class E provides permitted development rights within the curtilage of a house. Buildings under Class E should be built for **purposes incidental** to the enjoyment of the dwellinghouse.

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.

The Government Technical Guidance on Permitted Development Rights for householders leads on to clarify:

*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 information included as part of this application refers to the outbuilding as proposed ancillary accommodation. The outbuilding would include two bedrooms and a bathroom. As set out above, a purpose incidental to a house would **not** cover normal residential uses to form primary living accommodation such as bedrooms and bathrooms. In the dismissed appeal for Cedarwood, Longfield Avenue ref: APP/K2230/X/22/3301772 (attached as Appendix 1) the Inspector found that the use of the outbuilding (with proposed garage, utility room, study/office and garden room/hobby space with WC) would **not** be incidental to the dwellinghouse.

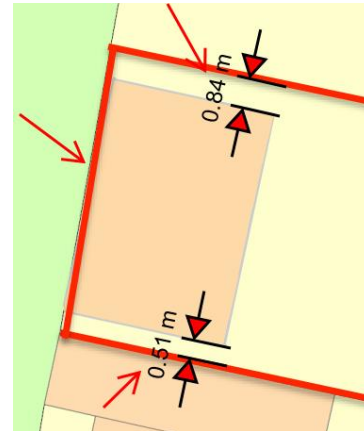
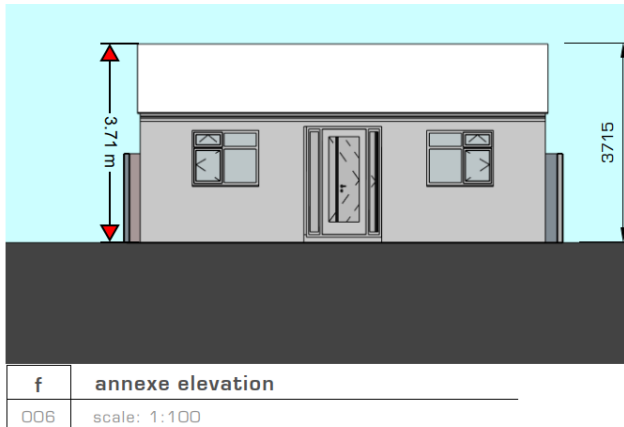
For the reasons set out above, the proposed outbuilding cannot be lawful development as the building is not incidental to the use of the dwellinghouse.

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 G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);	N

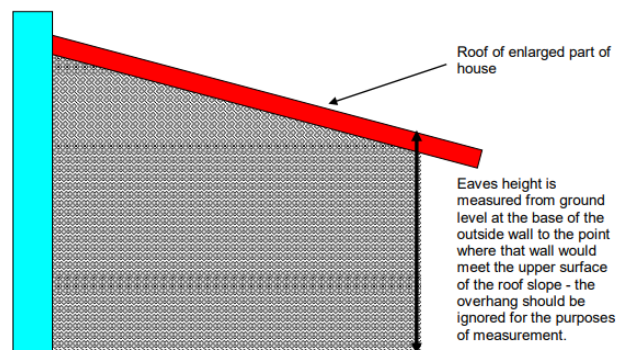
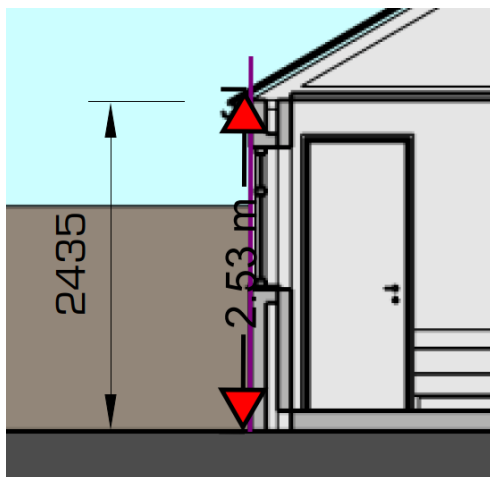
(b)	The total area of ground covered by building, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);	N
(c)	Any part of the building, enclosure, pool or container 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/A Y 3.71m N/A
(f)	The height of the eaves of the building would exceed 2.5 metres;	Y 2.53m
(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;	N
(j)	The capacity of the container would exceed 3,500 litres; or	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 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

Officer Analysis

The application fails to comply with A.3 (a) as information relating to the exterior materials has not been provided. In addition, as set out above, the proposal fails to comply with E.4 of Class E, as the outbuilding would not be incidental to the enjoyment of the dwellinghouse. Furthermore, the proposal fails to comply with E.1(e)(ii) because the building would be within 2 metres of the boundary of the curtilage of the dwellinghouse and would be greater than 2.5m in height:



Additionally, the eaves of the outbuilding would fail under E.1 (f) as the eaves height, as per the Government Guidance definition of eaves height, would exceed 2.50m:



Conclusion

The proposed single storey rear extension fails to comply with A.3 (a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), as information relating to the exterior materials has not been provided.

In addition, the proposed outbuilding fails to comply with E.4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), as the outbuilding would contain primary living accommodation. It would therefore not be incidental to the main dwelling. Furthermore, the proposal fails to comply with E.1(e)(ii) because the building would be within 2.00m of the boundary of the curtilage of the dwellinghouse and would be greater than 2.50m in height. Additionally, the eaves of the outbuilding would fail under E.1 (f) as the eaves height would exceed 2.50m.

Recommendation: Refuse Lawful Development Certificate

Case Officer:	Mrs Lucy Hankin	Team Leader:	Richard Hart
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Signed:	L Hankin	Signed:	<i>R Hart</i>
Dated:	5th September 2024	Dated:	5th September 2024