

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20230477
Location	10 Lanes Avenue Northfleet Gravesend Kent
Proposal:	Application for a Lawful Development Certificate in respect of the proposed erection of a single storey outbuilding to the rear.
Applicant:	Mr Domonik Mita
Site Visit	N/A Desktop Assessment

Plans & Documents

Application Form;
Drawing No. 001 – Block Plans – Existing and Proposed with OS Plan; and
Drawing No. 002 – Floor Plans and Elevations – Proposed.

Property Type

10 Lanes Avenue is a two storey mid terraced property located south west of the highway.

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 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/A N 2.49m N/A
(f)	The height of the eaves of the building would exceed 2.5 metres;	N 2.49m
(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 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

Incidental to the main dwellinghouse

This application seeks to obtain a Lawful Development Certificate for the erection of an outbuilding to form a games room. The floor plans also show a bathroom and a living room style area. The bathroom and the indication of the living room area is considered to be an example of primary living accommodation which would not be an incidental use under Class E and would require planning permission. Additionally, in conjunction with the scale of the outbuilding and the floor area of the rooms, it is considered that the proposed outbuilding itself is not incidental to the main dwellinghouse and planning permission is required.

The footprint (ground floor) of the main dwellinghouse is approximately 46.56sqm and the footprint of the proposed outbuilding is 68.05sqm, which is 21.49sqm larger than the main dwelling. The term 'incidental' implies a form of subordination and by virtue of its footprint, the outbuilding cannot be considered subordinate to the dwellinghouse. In addition to this, the proposed floor area of the rooms should be considered. The games room with living room style area measures at 47.95sqm and the bathroom; 4.68sqm. In a dismissed appeal for an outbuilding, (See APP/X0360/X/08/2064662 – appendix 1), the applicant had not explained why the unusually large room sizes were required for incidental leisure activities and they exceeded what could reasonably be considered 'incidental.'

Therefore, the Local Planning Authority does not consider the proposed room sizes for the outbuilding are reasonably required and instead can be seen as excessively large. In addition, the bathroom and the indication of the living room area are considered to be an example of primary living accommodation. Furthermore, the footprint of the proposed development is not subordinate to the main dwelling. Therefore the proposed outbuilding fails to meet the incidental requirement of Class E and planning permission would be required.

Conclusion

It is considered the outbuilding is not incidental to the main dwellinghouse by virtue of the primary living accommodation included within the proposal, and the excessive size of the proposed rooms. Moreover, the outbuilding footprint would exceed the main dwelling footprint by approximately 21.49sqm and therefore cannot be considered subordinate, or 'incidental.'

Therefore, the proposed development fails to comply with **THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (ENGLAND) ORDER 2015, AS AMENDED**, and the **LAWFUL DEVELOPMENT CERTIFICATE** is **REFUSED**.

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

Case Officer:	Mrs Lucy Hankin	Team Leader:	Richard Hart
Signed:	L Hankin	Signed:	<i>R Hart</i>
Dated:	28th June 2023	Dated:	29th June 2023