

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20240558
Location	Furzy Lea Bowesden Lane Shorne Gravesend
Proposal:	Application for a Proposed Lawful Development Certificate in respect of the construction of a timber building with consists of a summer house and shed, pitched roof with table top roof and an open canopy to the front.
Applicant:	Mr Yadwinder Gill
Site Visit	N/A Desktop Assessment

Plans & Documents

Application Form Dated 19/06/2024;
 Supplementary Information – Planning Statement;
 Floor Plans and Elevations – Proposed;
 Drawing Number DKM/7791/03 (Block Plan – Proposed); and
 Drawing Number DKM/7791/01 (OS Plan).

Property Type

Furzy Lea is a detached dwellinghouse.

Material Consideration

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

Relevant Planning History

Reference	Description	Decision	Decision Date
20230954	Demolition of existing conservatory and erection of a two storey side extension.	Refused	07.11.2023
20230240	Application for a Proposed Lawful Development Certificate in respect of the erection of a Gym	Certificate Granted	10.05.2023
20221191	Single storey rear extension with a depth of 8.00 metres, maximum height of 3.50 metres and eaves height of 2.40 metres.	Prior Approval not Required	29.11.2022
20220995	Single storey rear extension with a depth of 8.00 metres, maximum height of 3.50 metres and eaves height of 2.40 metres.	Prior Approval Required	12.10.2022

		and Refused	
20071061	Construction of new pitched roof to replace existing flat roof at rear and installation of new window in rear elevation at first floor level.	Permitted	18.01.2008
19940321	Erection of a conservatory at the rear.	Permitted	28.07.1994
TH/6/51/115 (19510115)	Erection of a dwellinghouse and garage	Permitted	07.09.1951

Preliminary Matters

The following comments were received in relation to the application:

Shorne Parish Council

The Parish Council OBJECTS STRONGLY to this retrospective application. We do not consider that the application is valid as Lawful Development but that a full Planning Application is instead required.

The application and design have a number of deficiencies/faults:

- *The title refers to a “timber building” and the planning statement refers to “a timber frame with cement board cladding”, however the walls appear to be all of solid brick and it is a permanent structure.*



Although called a “summer house” (but elsewhere a “summer room/home office”) the building has a large fireplace and chimney, with a kitchen and large “WC” area indicated (large enough for a full bathroom) so is capable of being used as a separate dwelling.

- *The recently created separate driveway access raises concerns about the intentions for this building, as well as being engineering works requiring full planning permission.*
- *The “table-top” roof is an alien design that is out of character with other buildings in the area, and appears to be an afterthought change to reduce the total roof height.*
- *The open canopy should be subsidiary in height to the main roof and cannot be enclosed.*

- Although part of the building is proposed as a shed, and the applicant claims this is because “the existing shed has been removed”, there is another shed anyway available as seen in the photograph.



The shed area should also have a subsidiary and separated roof if an attached building, and be without any communicating opening. No combustible materials should be stored in the shed.

- Although the eaves height is claimed as 2.5m, the land level, particularly on the south-eastern side, has been artificially raised. This is shown in Application ref 20240559 but not in this one. Other enabling engineering work is also noted, such as a possible additional retaining wall to the left of the outbuilding, and which is not included in Application ref 20240559. The building sits on a platform which is larger than the building and includes steps. As enabling engineering works have been required, the proposal will not be lawful development and a full planning application is needed.
- The chimney is only 4m high, we believe 4.5m is required for flue safety.
- The drainage and sewerage arrangements are not discussed.
- Exterior lighting is not discussed.
- From measuring using the scale on the submitted plans, some parts of the building appear to be within 2m of the boundary fences.

The Parish Council considers that a full planning application is required, due to the nature and location of the building and the engineering works that are involved, and so that a variety of Conditions could be attached including controlling the use. Otherwise, the statements made by the applicant in their Planning Statement regarding limitations to proposed use will form an integral part of any permission.

We must also raise concerns about the overall amount of development that is taking place on the site, and the urbanisation of a Green Belt property which is adjacent to a National Landscape Area.

19th August – Further to our previous letter dated 7th August the Society would comment that taking into account the engineering works associated with the building, the services and its potential, the Society considers the development should be subject to a full planning application. The Society would suggest that since the site is in the Green Belt, conditions are imposed to restrict and future conversions to residential use.

7th August - In the Society's view there is insufficient details of the proposed building. As a minimum a floor plan should be provided giving the dimensions of the building and detailing the internal arrangement.

Neighbouring concerns were also raised with the following:

- Intended use as a separate dwelling;
- Effect on the openness of the area.

Whilst the above comments have been noted, the submitted application will be assessed under Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as Amended:

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 –

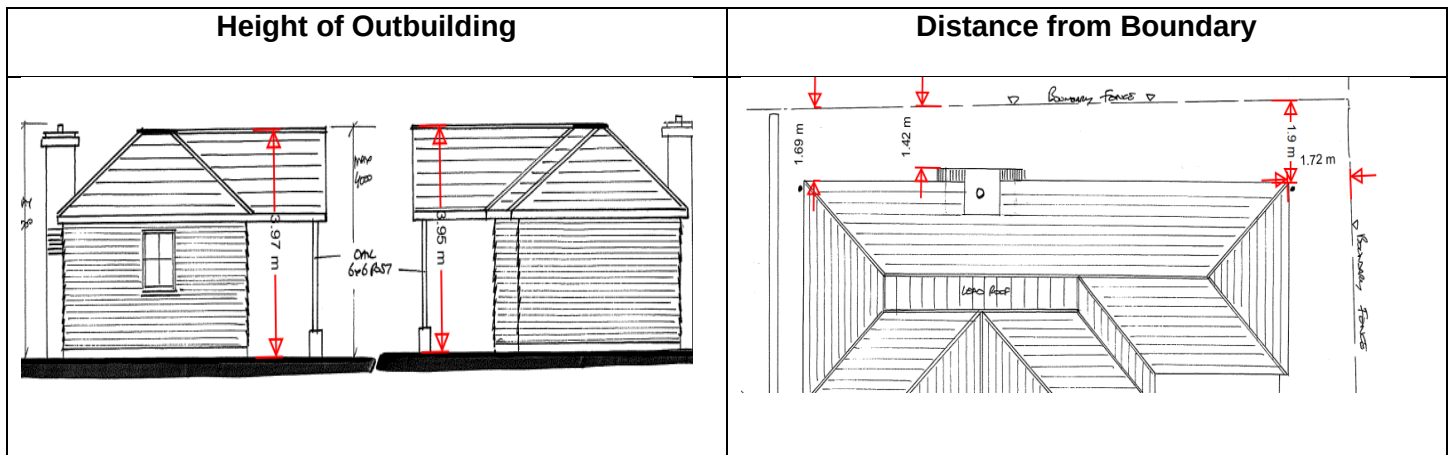
(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or

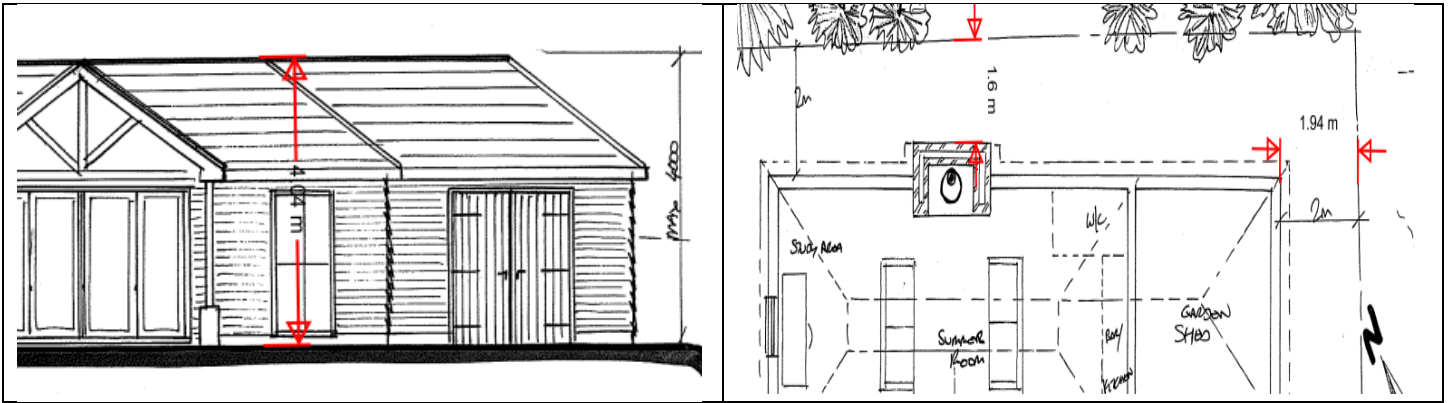
(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

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,	N/A

	(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;	Y* 1.42 N/A
(f)	The height of the eaves of the building would exceed 2.5 metres;	N 2.37m
(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
(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
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

*As shown below, the height of the outbuilding would exceed 2m and is situated within 2m of the boundary of the curtilage of the dwellinghouse:





Incidental to the dwellinghouse

The application seeks to obtain a Lawful Development Certificate for the erection of an outbuilding to form a summer room / home office and garden store-room. The floor plans also show a WC and kitchen area. The proposed rooms are considered to be an example of primary living accommodation which would not be considered an incidental use under Class E and would require planning permission.

Furthermore, there is an existing outbuilding permitted under application 20230240. **The footprint of the main dwellinghouse is approximately 141.16sqm** and the footprint of the proposed outbuilding and the existing outbuilding combined **would be approx. 148.56sqm** which is greater than the main dwelling. The term 'incidental' implies a form of subordination and by virtue of the size and if permitted, the combined outbuildings could not be considered subordinate to the dwellinghouse.

As such, the Local Planning Authority does not consider the proposed outbuilding is reasonably required and instead can be seen as an excessively large addition when combined with the existing outbuilding and would not be subordinate to the main dwelling and therefore the proposed outbuilding fails to meet the incidental requirement of Class E.

Conclusion

The proposed development fails to comply with Class E.1 (e)(i) as the height of the outbuilding would exceed 2.5m and would be within 2m of the boundary of the curtilage of the dwellinghouse. In addition, it is considered the outbuilding is not incidental to the main dwellinghouse by virtue of the proposed rooms which could provide primary living accommodation. Moreover, the combined footprint of the proposed and existing outbuildings would exceed the main dwelling footprint 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: Refuse Lawful Development Certificate

Case Officer:	Mrs Nina Goodbody	Team Leader:	Richard Hart
Signed:	N Goodbody	Signed:	R Hart

Dated:	23rdSeptember 2024	Dated:	23rd September 2024