

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20220798
Location	Cherry Hay Wrotham Road Meopham Gravesend
Proposal:	Application for a Lawful Development Certificate in respect of the proposed erection of a detached outbuilding for use as a games room, home office (non-commercial) and garden store and store room.
Applicant:	Mr West
Site Visit	Desktop Assessment

Plans & Documents

Application Form;
Drawing No. SKA CH 08 00 01 D00 – Site Location Plan;
Drawing No. SKA CH 08 00 02 D00 – Block Plan - Proposed;
Drawing No. SKA CH 08 00 03 D00 – Floor Plans – Proposed;
Drawing No. SKA CH 08 00 04 D00 – Block Plan – Existing;
Drawing No. SKA CH 08 70 01 D00 – Elevations - Proposed;
Supplementary Information - Drawing No. SKA CH 08 70 02 A01 – Exterior Proposed View; and
Supplementary Information – Covering Letter.

Property Type

Cherry Hay is a two bedroomed detached property.

Material Consideration

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

Relevant Planning History

Application No.	Description	Status	Decision
20210094	Erection of a single storey rear and side extension.	Permitted	25.03.2021
20070030	Outline application for the erection of three, two storey buildings to provide a total of 12 one and two bedrooms flats.	Refused	09.03.2007

19791023	Erection of stable block comprising tackroom store and two loose boxes	Refused	28.12.1979
19740559	Outline application for the erection of one dwelling on land.	Refused	08.01.1975
19560301	Erection of a bus shelter	Permitted	05.04.1956
19560064	Erection of Ablution Block and extension to Lavatory Block	Permitted	14.05.1956
19480110	internal alterations to form bathroom and water closet	Permitted	05.11.1948

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 –

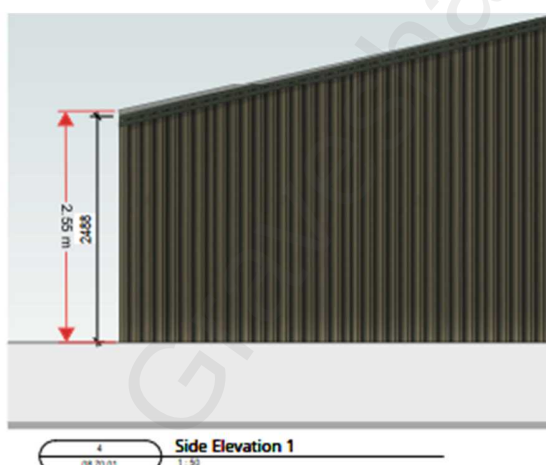
(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or

(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

	(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	N/A
	(iii) 3 metres in any other case;	N/A
(f)	The height of the eaves of the building would exceed 2.5 metres;	Y* 2.55m
(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

*As shown below, the eaves exceed 2.50m:



Incidental to the main dwellinghouse

The application seeks to obtain a Lawful Development Certificate for the erection of an outbuilding to form a games room, home office (non-commercial), garden store and store room. The floor plans also show a WC. The WC can be considered an example of primary living accommodation which would not be an incidental use under Class E and would require planning permission. However, a degree of reasonableness can be applied. The proposed WC is 4.20sqm and contains a basin and toilet only and therefore is likely to be used only in connection with the home office/games room. The proposed room uses therefore are considered to comply with Class E. However, read 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 of the main dwellinghouse is approximately 131.67sqm and the footprint of the proposed outbuilding is 172.50sqm, which is 40sqm 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 has an approximate floor area of 65.74sqm, the store 17.51sqm, the WC 4.20sqm, the home office 36.69sqm and the garden store 24.12sqm. In a dismissed appeal for an outbuilding, (See APP/X0360/X/08/2064662), 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.'

As such, 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 footprint of the proposed development is not 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, E.1 (f) as the eaves of the outbuilding would exceed 2.50m. In addition, it is considered the outbuilding is not incidental to the main dwellinghouse by virtue of the excessive size of the proposed rooms. Moreover, the outbuilding footprint would exceed the main dwelling footprint by approximately 40sqm 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:	25th July 2022	Dated:	11th August 2022