

# Delegated Report

## *Lawful Development Certificate (Proposed)*

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|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Application no:</b> | 20250972                                                                                                                                                                                                                                                                     |
| <b>Location</b>        | The Red House, Wrangling Lane, Luddesdown, Gravesend, Kent, DA13 0XF                                                                                                                                                                                                         |
| <b>Proposal:</b>       | Application for an Existing Lawful Development Certificate for continued use of open fronted outbuilding for garden maintenance machinery and garden furniture storage to bays 1-3, and bays 4-6 for kennels incidental to the personal enjoyment of the main dwellinghouse. |
| <b>Applicant:</b>      | Mr Andy Wilson                                                                                                                                                                                                                                                               |
| <b>Site Visit</b>      | N/A Desktop Assessment                                                                                                                                                                                                                                                       |

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### **Plans & Documents**

Application Form – dated 26 September 2025;  
Supplementary Information – Statement in Support by D Haime (23 September 2025);  
Supplementary Information – Existing block Plan – dwelling as extended (outbuilding no.02 not relevant;  
Drawing no. 0B/01/01 – Site Location and Existing Block Plan;  
Drawing no. 0B/01/02 – Existing Floor Plan and Elevations;  
Drawing no. 0B/01/03 – Existing Rear Elevation.

### **Site Description**

The application property is a detached chalet style bungalow located within the Kent Downs National Landscape.

The site contains a detached garage/store outbuilding (pre-existing). Two outbuildings were constructed without consent and were subject to a refused LDC (ref. 20250272). This application states that the smaller pumphoom outbuilding has been removed and related to the larger building shown in the photographs below:





### **Material Consideration**

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

### **Relevant Planning History**

| Reference | Description                                                                                                                                                                                   | Decision            | Decision Date |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|---------------|
| 20250272  | Application for an Existing Lawful Development Certificate for two existing outbuilding.                                                                                                      | Certificate Refused | 16.05.2025    |
| 20240236  | Erection of first floor extension to bungalow with pitch roof dormers to front, two storey front porch extension and single storey rear and side extensions with alterations to fenestration. | Application Refused | 17.07.2025    |

### **Preliminary Matters**

This application for a lawful development follows a refusal for two outbuildings on the site, which was refused on the following grounds:

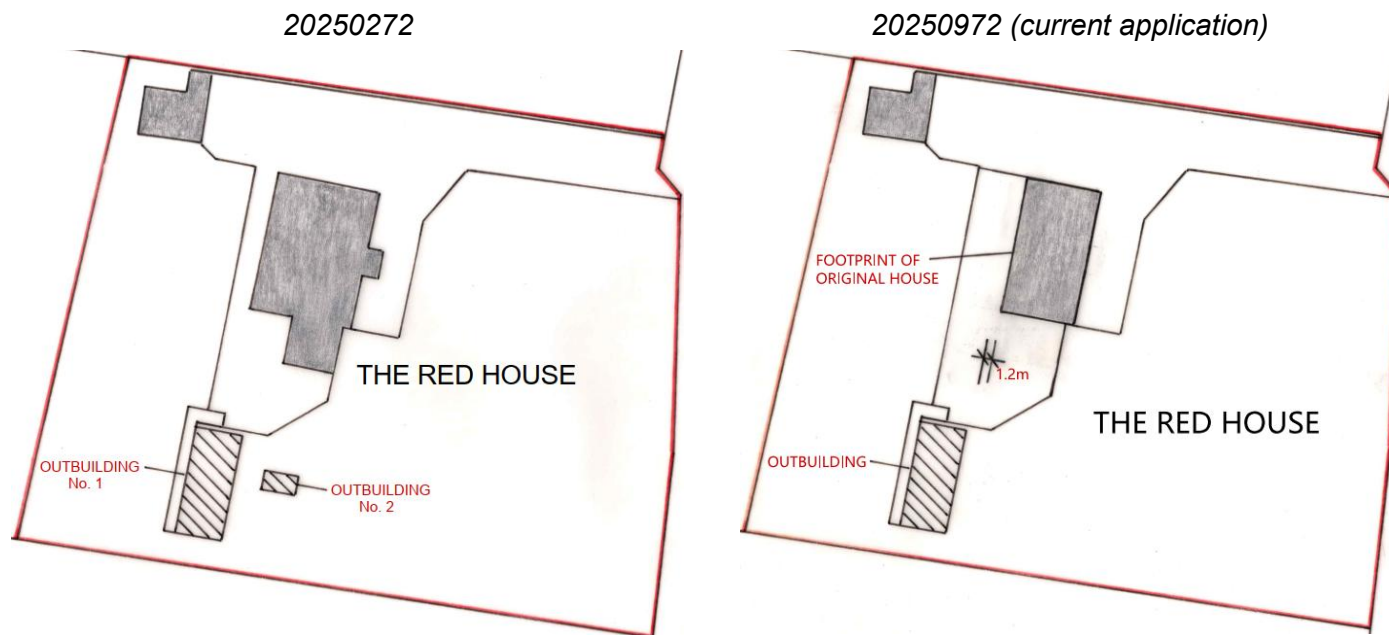
- The outbuildings fail to comply with the parameters set out in Schedule 2, Part 1, Class E.3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, by virtue of constructing the outbuildings between the side wall of the dwelling and the boundary of the curtilage. Therefore, the application cannot be supported, a lawful development certificate is refused and planning permission is required.*
- The application has been supported by insufficient information for the Local Planning Authority to determine with certainty that the use of the kennel outbuilding would be incidental to the personal enjoyment of the dwellinghouse. Therefore, it cannot be confirmed that the proposal satisfies Class E(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.*

The refusal is currently being appealed with the Planning Inspectorate (APP/K2230/D/25/3373993).

It is noted that this application has removed the smaller pump room outbuilding and the use of the larger kennel outbuilding has been altered with only 3 bays used for kennelling purposes.

The plans submitted with this application show the 'footprint of original house', which is not accurate of the existing building. As such, the Local Planning Authority have included 'Drawing no. 0B/01' of ref. 20250272 within the plans and particulars.

Notwithstanding this, the submitted plan ('Drawing no. 0B/01/01' shows that the outbuilding is set back from the rear wall of what the applicant purports is the 'original footprint', in order to overcome Class E.3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (as shown in the plans below):



## Officer Assessment

### *Permitted Developments Rights Restrictions*

|                                                 |   |
|-------------------------------------------------|---|
| Article 2 (3) Land (AONB, Conservation Area)    | Y |
| 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.**

### *Class E(a) – Is the development incidental to the enjoyment of the dwellinghouse?*

The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, requires outbuildings to be built for purposes incidental to the enjoyment of the house, which can include the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the house (*Class E.4 – Interpretation of Class E*).

In this case, the outbuilding contains 6no. bays that are identified on the plans as storage (3no.) and kennels (3no.), which is a material change to the previous refusal. The use of the building as storage is an incidental use and the provision of 3 kennel bays would fall within the hobby category and incidental.

As such, the Local Planning Authority can confirm that the proposal satisfies Class E(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

Development not permitted

| <b>E.1</b> | <b>Development is not permitted by Class E if –</b>                                                                                                                                                                                                                                                                                                                  | <b>Y/N</b>                         |
|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| <b>(a)</b> | 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>(b)</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                                  |
| <b>(c)</b> | 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                                  |
| <b>(d)</b> | The building would have more than a single storey;                                                                                                                                                                                                                                                                                                                   | N                                  |
| <b>(e)</b> | The height of the building, enclosure or container would exceed –<br><br>(i) 4 metres in the case of a building with a dual-pitched roof;<br><br>(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<br><br>(iii) 3 metres in any other case;                                    | N<br>(3.65m)<br><br>N/A<br><br>N/A |
| <b>(f)</b> | The height of the eaves of the building would exceed 2.5 metres;                                                                                                                                                                                                                                                                                                     | N                                  |
| <b>(g)</b> | The building, enclosure, pool or container would be situated within the curtilage of a listed building;                                                                                                                                                                                                                                                              | N                                  |
| <b>(h)</b> | It would include the construction or provision of a verandah, balcony or raised platform;                                                                                                                                                                                                                                                                            | N                                  |
| <b>(i)</b> | It relates to a dwelling or a microwave antenna; or                                                                                                                                                                                                                                                                                                                  | N                                  |
| <b>(j)</b> | The capacity of the container would exceed 3,500 litres                                                                                                                                                                                                                                                                                                              | N                                  |
| <b>(k)</b> | The dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)                                                                                                                                                                                                                                                                       | N/A                                |
| <b>E.2</b> | In the case of any land within the curtilage of a dwellinghouse which is within –<br><br>(a) An area of outstanding natural beauty;<br><br>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                                  |

|                   |                                                                                                                                                                                                                                                                                                                                                       |          |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| <p><b>E.3</b></p> | <p>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.</p> | <p>Y</p> |
|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|

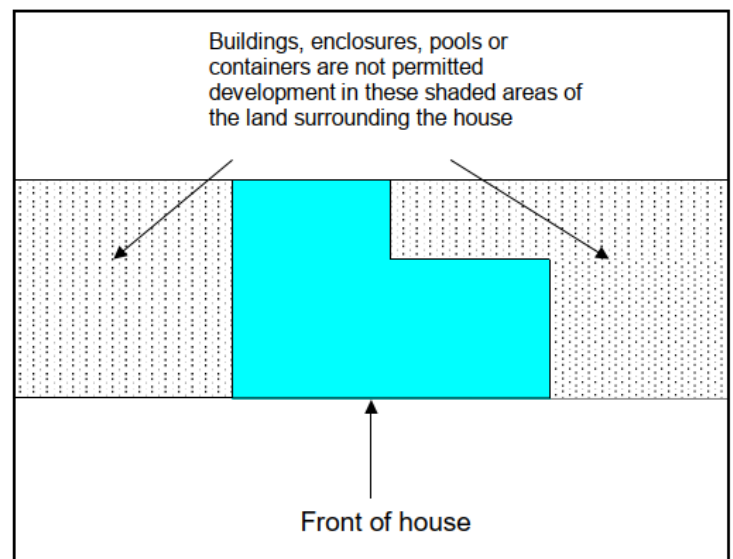
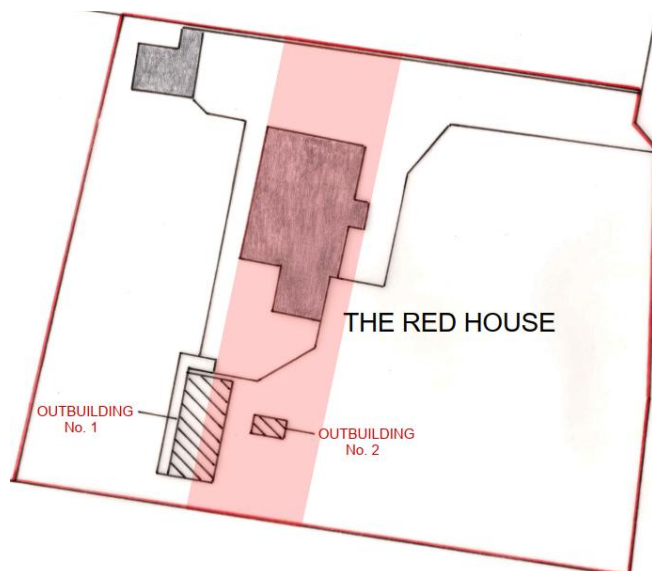
## Assessment

### Procedure

National Planning Guidance on determining applications of Lawful Development Certificates for existing uses or development is clear in stating that the onus is on the applicant to provide sufficient information to demonstrate that the use of development is lawful beyond any reasonable doubt. Furthermore, in the case of an application for exiting uses, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicants evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

In this case, the issue for consideration is E.3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and if any part of the outbuilding has been constructed on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.

The Local Planning Authority maintain that the conclusions from the refused lawful development certificate (ref. 20250272) are relevant, as part of the outbuilding is clearly constructed between the side wall of the dwelling and the boundary of the curtilage (see plan extract from ref. 20250272 and extract from 'Permitted Development Rights for Householders - Technical Guidance' (Ministry of Housing, Communities & Local Government)):



The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) does not differentiate between the original dwelling or an extended dwelling, and therefore it is concluded that the 'dwellinghouse' is the property in its current form.

This is confirmed in an appeal (APP/L3625/X/10/2121499) where the Inspector considered this point on an application seeking the construction of a rear extension and outbuildings under Classes A and E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended):

*“The two proposed outbuildings would be located within the domestic curtilage to the rear of the existing rear elevation of the dwelling. In the absence of the proposed rear extension they would not be excluded as permitted development by the Class E.3 limitation. However, if the rear extension was built, both outbuildings would be sited between the rear extension and the boundary of the domestic curtilage. They would therefore lie between the side elevation of the dwellinghouse, as extended, and the side boundary of the property.*

*Hence the overall effect of the implementation of the development proposal, which I must consider as a whole, would be that the outbuildings would not be permitted development by virtue of the Class E.3 limitation. A proposal making a claim of permitted development rights under more than one Class must be assessed against each and every one of the sub-clauses of the relevant part of Schedule 2 for each Class. If, as in this case, any of the limitations, exemptions or provisos is exceeded, then the whole development is not permitted by the GPDO”.*

As such, the proposal fails to comply with E.3.

Notwithstanding that the development fails paragraph E.3, the applicant has presented that this paragraph relates to only the ‘original dwellinghouse’. Whilst this point is presented without any supportive case law evidence, the Local Planning Authority will give this due consideration in the avoidance of doubt.

#### Evidence from the Applicant

As evidenced in the plans and supporting statement, the applicant interprets that E.3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) relates to the original dwellinghouse. On this basis, the applicant has presented in their supporting statement that the utility projection is not original. The statement sets out the following:

*“TOGETHER WITH A SMALL TIMBER STRUCTURE (MARKED ‘X’ ON THE PHOTO), WHICH IS UNDERSTOOD TO HAVE BEEN A UTILITY AREA, BUT MOST LIKELY A LOBBY/BOOTROOM DUE TO THE LACK OF EVIDENCE OF DRAINAGE IN THE IMMEDIATE VICINITY.*

*IT WOULD BE ASSUMED THIS ‘TACK ON’ TIMBER STRUCTURE WOULD HAVE ALSO SERVED FOR OUTSIDE CLOTHING AND FOOTWEAR WHILE WORKING AND MAINTAINING THE EXTENSIVE GARDEN AREAS.*

*LOOKING AT THE SMALLER STRUCTURE WHICH IS SET BACK FROM THE CONSERVATORY, IT IS QUITE CLEAR THIS TIMBER STRUCTURE WAS ADDED AFTER THE ORIGINAL HOUSE WAS BUILT, MORE SO WITH ITS LEAN TO ROOF WITH FASCIA BOARD NOT ALIGNING WITH THE EXISTING MAIN HOUSE.”*

To support this statement, one obscured photograph of the extension is provided:



This photograph does not show the extension in full and therefore it is not sufficient to confirm if the extension is of timber construction.

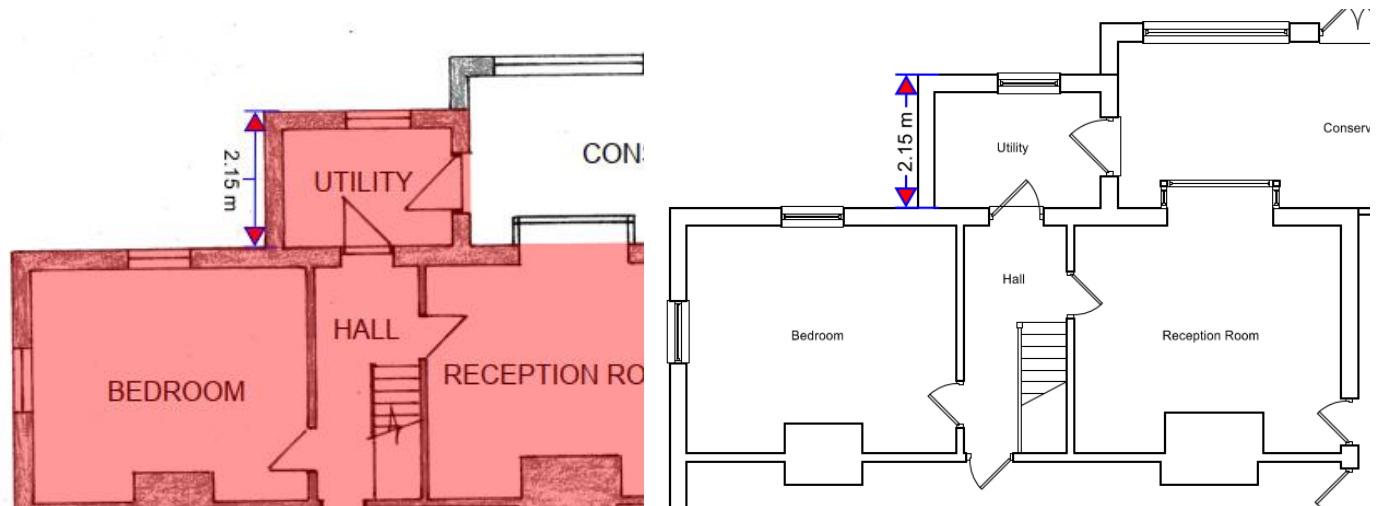
Evidence Gathered by the Local Planning Authority

The below photographs were taken on site (18.04.2024) and show the rear utility room projection:



These photographs are considered to show a robust construction, and the Local Planning Authority would query that the extension was of timber construction.

Nevertheless, the photographs corroborate with the existing floor plans submitted under ref. 20240236. These floor plans demonstrate that the rear projection (utility room) had a depth of 2.15m (see below). This 2.15m depth exceeds the 1.2m set-back of the outbuilding from the rear wall as shown in 'Drawing no. 0B/01/01' and would fail to comply with E.3.



The Local Planning Authority consider the utility room projection to be original, based on the Kent Heritage Maps (dated 1929-1952) which shows the rear projection:



According to the glossary of the National Planning Policy Framework, an original building is 'a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was originally built'. Therefore, on the balance of probability the 1929-1952 historic map would show the original footprint of the dwelling, with a rear projection of similar scale and position to the 'utility room'. As such, based on this evidence, the outbuilding as constructed is situated on land between a wall forming a side elevation of the original dwellinghouse and the boundary of the curtilage, contrary to E.3.

#### Assessment Summary

As demonstrated above, the outbuilding is constructed on land between the boundary of the curtilage and the side of the dwelling, both in its original and current forms. Therefore, the outbuilding fails to comply with E.3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

**Conclusion**

The outbuildings fails to comply with the parameters set out in Schedule 2, Part 1, Class E.3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, by virtue of constructing the outbuildings between the side wall of the dwelling and the boundary of the curtilage.

|                                                                     |                                |                     |                                      |
|---------------------------------------------------------------------|--------------------------------|---------------------|--------------------------------------|
| <b>Recommendation:</b> <u>Refuse</u> Lawful Development Certificate |                                |                     |                                      |
| <b>Case Officer:</b>                                                | Mr Ethan Bonthron              | <b>Team Leader:</b> | <b>Richard Hart</b>                  |
| <b>Signed:</b>                                                      | <i>Ethan Bonthron</i>          | <b>Signed:</b>      | <i>R Hart</i>                        |
| <b>Dated:</b>                                                       | 21 <sup>st</sup> November 2025 | <b>Dated:</b>       | <b>24<sup>th</sup> November 2025</b> |