

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20260364
Location	Castle Shaw, Wrotham Road Istead Rise Gravesend
Proposal:	Application for a Proposed Lawful Development Certificate; demolition of existing outbuildings, construction of two new single-storey outbuildings and provision of new hardstanding.
Applicant:	Mr Avttar Channa
Site Visit	N/A Desktop Assessment

Plans & Documents

Application form
Supporting Statement by Gracechurch Town Planning
Drawing no. 696.500.PD.02 rev A (proposed site plan)
Drawing no. 696.500.PD.01 (existing site plan)
Drawing no. 696.1250.PD.01 (location plan)
Drawing no. 696.100.PD.06 (proposed elevations building B)
Drawing no. 696.100.PD.05 (proposed elevations building A)
Drawing no. 696.100.PD.04 (proposed floor plans)
Drawing no. 696.100.PD.03 (existing elevations building B)
Drawing no. 696.100.PD.02 (existing elevations building A)
Drawing no. 696.100.PD.01 (existing floorplans)
Drawing no. 696.100.PD.07 (proposed sections)

Property Type

The property comprises a two storey detached property.

Material Consideration

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

Relevant Planning History

20260196	Application for determination as to whether prior approval is required for the demolition of two outbuildings.	Prior approval not required	12.03.2026
20220712	Demolition and replacement of existing stable block and barn	Application Refused	23.08.2022

19920030	Erection of two storey extension on the south side to form study, enlarged dining room and utility room with 3 no. bedrooms at first floor level.	Permitted	24.03.1992
19910265	Erection of two storey extension on south side to form playroom, dining rm., lobby, utility rm. & w.c. with 3 bedrooms & bathroom at 1st floor; erection of single storey rear extension to form breakfast rm. & alterations to part of the ground floor front elev. to form entrance hall & porch.	Application Refused	11.06.1991
19880208	Change of use from private dwelling to a residential home for the elderly.	Application Refused	23.05.1988

Consultations

As confirmed in Para.008 Reference ID 17c-800-20140306 of the Government's Planning Practice Guidance, there is no statutory requirement to consult third parties on Lawful Development Certificate applications.

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;	
(f)	The height of the eaves of the building would exceed 2.5 metres;	
(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
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

Is the development within the curtilage of the dwellinghouse?

The application site is a large, detached dwelling, located within extensive grounds. It would appear from aerial photos that the whole site is not within residential curtilage however, it is also not clear where the residential boundary sits. The photos below show the site in 1990 and 2025:

1990:	2025:
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On balance it is considered that the existing buildings are situated within the residential curtilage as shown below:



Are the buildings required for a purpose incidental to the enjoyment of the dwellinghouse?

The buildings comply with the listed limits and conditions of Class E, Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015. However, this would apply to incidental buildings only as explained in the pre-amble. The Technical Guidance for Permitted development rights for householders (2019) states the following:

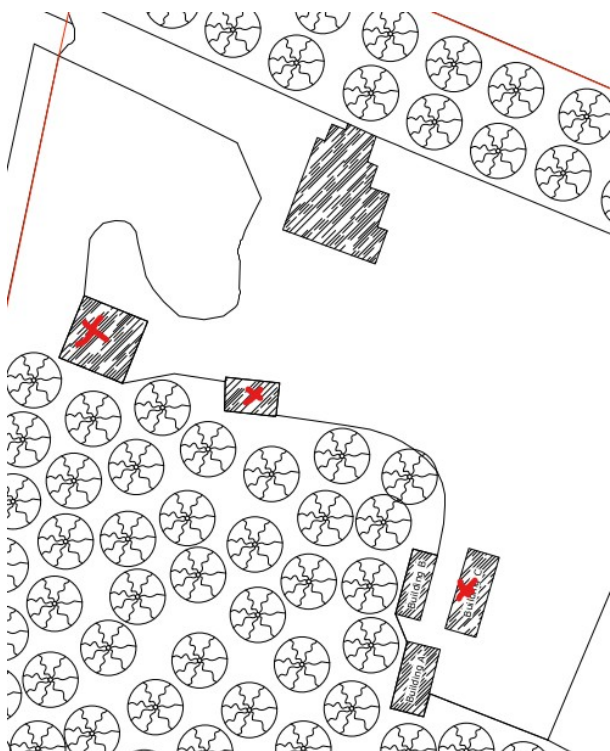


Class E sets out the rules on permitted development for buildings etc within the curtilage of a house (see page 7). Buildings which are attached to the house are not permitted under Class E (they would be subject to the rules in Class A). Buildings under Class E should be built for purposes incidental to the enjoyment of the house. 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.

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.

This guidance therefore advises that Class E would only apply to outbuildings that can be 'properly described as having a purpose incidental to the enjoyment of the house.'

The property is substantial and already contains other outbuildings that are shown on the plans and are marked with red crosses below



The furthest left/western structure is a car port which is enclosed on three sides and a roof with space for three cars. The middle structure is a small open-fronted log store for firewood (rather than green logs). The furthest right/eastern building is used for household storage.

The main dwelling has a footprint of approx. 202sqm.

The two proposed outbuildings will have a combined footprint of 331.5sqm.

The two outbuildings proposed to be demolished have a footprint of 36sqm (building B) and 50sqm (building A) which is a total of 86sqm. The increase in built footprint therefore is 245.5sqm. There is therefore a question

as to why these additional buildings are required for a purpose incidental to the enjoyment of the dwellinghouse.

It is shown on the plans that the proposed building A will contain a main barn, workshop and storage and a vehicle and machinery storage area. It will have a mezzanine for building material storage. The floor plan shows storage for a trailer, a John Dere tractor, land rover, quad bike, ride on mower and tractor implements which all relate to an agricultural use, rather than a residential use. The middle section of the building will provide storage for a rotavator, flail mower and log splitter which are more related to a residential use however the third section is to be used for storage of logs, hay bales and aggregate which all relate to a non-residential use. The first floor is to be used for the storage of building materials, again, not related to a residential use but more akin to a commercial use. Building B will contain a home gym which could be considered incidental to the residential use of the main dwelling.

The *Emin v Secretary of the State for the Environment and Mid Sussex District Council* [1989] JPL 909 case established that in the consideration of the term 'incidental to the enjoyment of the dwellinghouse' there should be some connotation of reasonableness in the circumstances of each case and should not be based solely on the unrestrained whim of a householder. However the planning statement does not address how this application for a lawful development certificate is not submitted on the unrestrained whim of the householder. It does not contain any details to how this building is incidental to the residential use of the property or why it needs to be the size which is proposed. In fact the storage appears to relate to a commercial use. The site area is approx. 3 hectares which is considerable, however it does not appear to be farmed land. The two plots to the eastern side of the site appear to be in equestrian use which has ceased or is about to cease given that the stables are to be demolished and not replaced. It is not clear why aggregates and building materials would need to be stored on site and how these relate to a residential use. It is unclear where all this machinery is currently stored. The question therefore remains why this building is required, how it relates to the residential use of the dwelling and why the existing outbuildings are not meeting this need.

The *Emin* case is clear that a proposed outbuilding will not necessarily be required just because the householder says it is and it is for the appellant to show it is reasonably required and designed with incidental uses in mind. The keynote here is 'reasonableness'.

The above principles were reiterated in *Holding v FSS & Thurrock BC* [2004] JPL 1405 and *LB Croydon v Gladden* [1994] 1 PRL 2. In the case of *Holding*, which concerned what might be regarded as a very large incidental building within the curtilage of a dwellinghouse, the Inspector considered that it is reasonable to suppose that the purpose of the permission granted under Class E is to allow for accommodation for hobbies to which people need space in and around their home to be provided without the need for the formality of a planning application. In the *Gladden* case it was held that for a use to be considered incidental to the enjoyment of a dwellinghouse and exempted from development under s55(2)(d), it must be of a scale and nature that is incidental to the reasonable enjoyment of the normal residential use of the buildings and land which comprise the dwellinghouse and its curtilage. As stated above, it is not clear why the buildings, particularly building A, is required to be so large that the footprint, even with 2 other buildings demolished, would still exceed the footprint of the main house.

The applicant's agent has included an appeal decision with the application submission. This appeal (APP/H1515/X/10/2124574 appendix 1) was for a large building for a pool, gym, sauna and stables measuring 30m x 10.5m (which was a footprint of around four times larger than the main house). Each element of the proposal was considered incidental (the pool, gym and stables) individually and the appeal was allowed. The difference between this appeal and the current application for a LDC is that the use of building A in particular, to house farm vehicles, aggregate and building materials would not appear to be incidental to the residential use of the property.

The applicant's agent has also provided another appeal (APP/J1915/X/23/3329462 appendix 2) which was allowed and made clear that whilst the size of an outbuilding in comparison to the size of the house is relevant, it is not a decisive factor. In this case the house had a total footprint of approx. 80sqm and the outbuilding also

had a footprint of approx. 80sqm. This is considerably smaller than the outbuilding proposed at Castle Shaw. Notwithstanding this, the building was considered incidental to the residential dwellinghouse.

Class F - The provision within the curtilage of the dwellinghouse of hard surfaces incidental to the enjoyment of a dwellinghouse

Development consisting of -

- (a) the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such; or
- (b) the replacement in whole or in part of such a surface.

F.1	Development is not permitted by Class F 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 dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)	N
F.2	Development is permitted by Class F subject to the condition that where	Y/N
(a)	The hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, and	N
(b)	The area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres,	Y
	Either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.	The hardstanding will be to the side

Recommendation: Refuse Lawful Development Certificate

The proposed building A is substantial in size and does not appear to be required incidental to the residential use of the dwelling house but instead appears more akin to storage relating to a commercial use. Insufficient evidence has therefore been presented to establish that the proposed building would be reasonably required for purposes incidental to the enjoyment of the main dwellinghouse. The development is therefore not permitted under Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and planning permission is required.

Case Officer:	Mrs Alison Webster	Team Leader:	Richard Hart
Signed:		Signed:	R Hart
Dated:	9 June 2026	Dated:	9th June 2026

