

Delegated Report

Lawful Development Certificate (Proposed)

Application no:	20211195
Location	Leylands Wrotham Road South Street Meopham
Proposal:	Application for Lawful Development Certificate for the proposed erection of a garage block used for purposes incidental to the main dwelling.
Applicant:	Mr Thomas Deininger
Site Visit	N/A Desktop Assessment

Plans & Documents

Application form received 27 September 2021.
 Drawing no. 004 rev A (proposed elevations) received 27 September 2021.
 Drawing no. 001 rev A (location plan) received 27 September 2021.
 Drawing no. 003 rev A (existing plans) received 27 September 2021.
 Drawing no. 002 rev A (floor plans) received 27 September 2021.

Property Type

The property comprises a large detached dwelling.

Material Consideration

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

Relevant Planning History

20210998	Application for Lawful Development Certificate for proposed erection of no.2 outbuildings used for purposes incidental to the main dwelling.	Certificate granted	22.09.2021
20210815	Application for a Lawful Development Certificate in respect of the erection of no.2 outbuildings used for purposes incidental to the main dwelling.	Certificate refused	04.08.2021
20210140	Erection of a pool house.	Refused	09.04.2021

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20200573	Installation of an outdoor 12m x 4m one piece composite fibreglass swimming pool.	Permitted	03.09.2020
20040096	Erection of a conservatory at the side.	Permitted	05.04.2004
20030209	Erection of a quadruple garage attached to existing potting shed/conservatory.	Permitted	23.06.2003
20020741	Retention of the Victorian greenhouse/conservatory to the side of the potting shed.	Permitted	30.10.2002
20020632	Application for a Lawful Development Certificate in respect of the continued use of two rooms and cloakroom on the ground floor as independent offices (class B1).	Certificate granted	25.02.2003
20020631	Application of a Lawful Development Certificate in respect of the continued use of part of the first floor as a one bedroom self-contained flat with separate access from the ground floor.	Certificate granted	25.02.2003
20010079	Conversion of the existing Victorian workshop/potting shed into a two bedroom staff dwelling.	Refused, dismissed at appeal	01.08.2001
20010076	Application for a Lawful Development Certificate in respect of the proposed conversion of the existing Victorian workshop/potting shed into a two bedroom staff dwelling.	Certificate refused, dismissed at appeal	20.07.2001
20010075	Application for a Lawful Development Certificate in respect of the proposed erection of a quadruple garage and the reinstatement of a Victorian greenhouse to the sides of the existing Victorian workshop/potting shed.	Certificate granted	19.07.2001
20000091	Erection of extension to side of existing Victorian workshop/potting shed to form 2 no. double garages at ground floor level with dormer windows in roof slopes and use of	Refused	05.04.2000

roof space as self-contained flat for staff accommodation consisting 2 no. bedrooms, bathroom, kitchen and lounge and reinstatement of greenhouse.

19950328	Erection of 1.8 metre high close board fence fronting Wrotham Road.	Permitted	24.07.1995
19880572	Continued use of dwelling without complying with the agricultural occupancy condition attached to planning permission ref. no. TH6/64/325A.	Refused	30.09.1988
19861024	Change of use of dwelling to residential home for the elderly	Permitted	06.04.1987
19600085	Site for erection of farmhouse	Permitted	31.05.1960
19590130	The erection of one dwelling	Refused	01.07.1959
19570105	Stationing of 2 residential caravans for seasonal agricultural workers	Permitted	11.06.1957

Consultations, Publicity and Representations

As this is an application for a Lawful Development Certificate it is a determination of whether the development requires planning permission or not. Whilst representations have been received from the Dickens Country Protection Society (below) unfortunately these cannot be taken into consideration:

Dickens' Country Protection Society

The Society notes that the site is in an area within which Green Belt Policies apply. In the Society's view the proposal could impact on the openness of the Green Belt and requires planning consent which should be conditioned to control residential use.

Officer Assessment

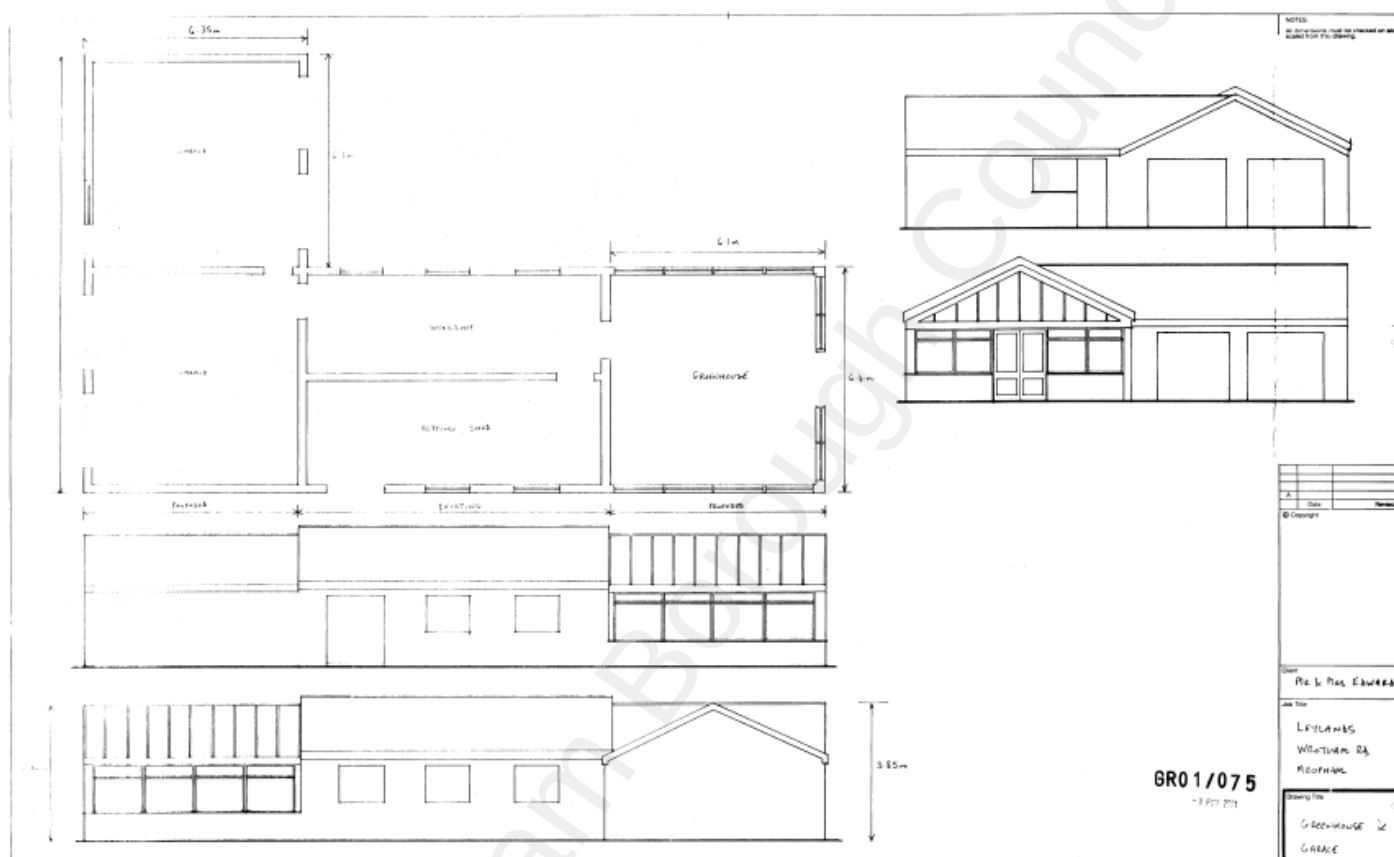
This application is for:

An extension to an existing building to form a four bay garage.

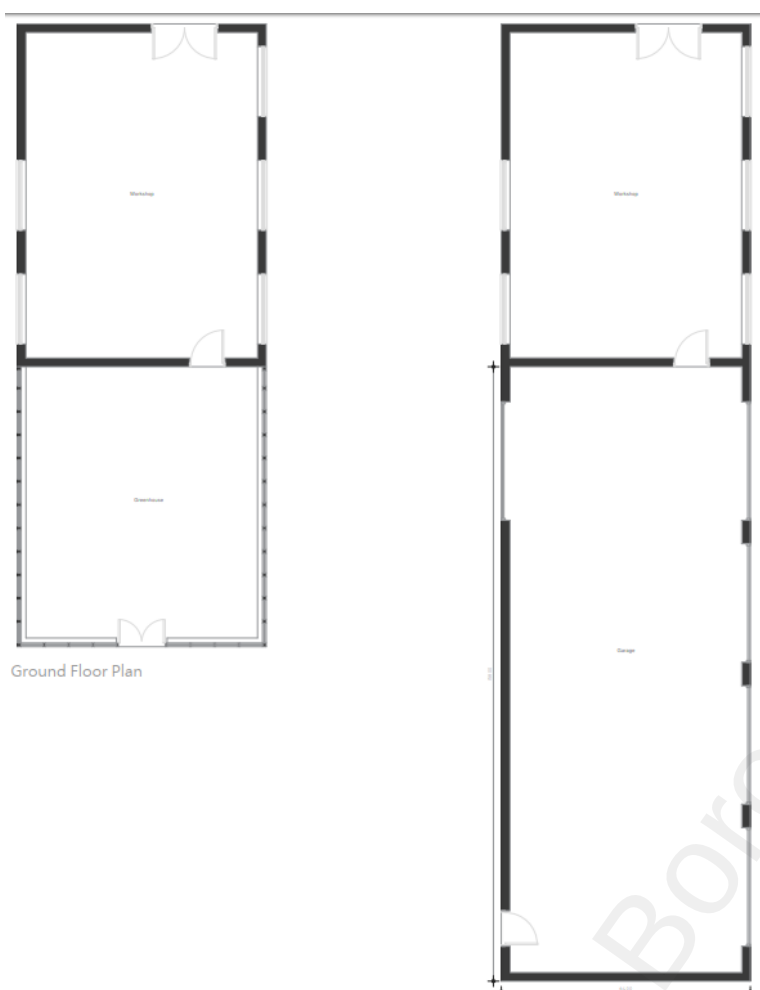
In determining whether the outbuildings and swimming pool are required for purposes incidental to the enjoyment of the occupiers of the existing dwelling, there is a need to take account of the following cases. The case of *Emin v SSE and Mid-Sussex District Council* [1989] 58 P & CR 416 established that "The term 'required' is...interpreted for the purposes of applying Class E as meaning 'reasonably required'". In *Wallington v Secretary of State for Wales* [1991] 1 PLR 87 it was found that, in decision making, objectivity needs to be applied and that a purpose incidental to the enjoyment of a dwellinghouse could not be the result of the 'unrestrained whim' of the occupier.

The main issue is therefore whether the garage, taking account of its scale and intended use, is reasonably required for purposes incidental to the enjoyment of the dwellinghouse, and the onus is on the applicant to demonstrate that the proposal is “reasonably required” for the purposes they propose to enjoy.

There have been various applications for lawful development certificates for the extension this building and also planning applications for the same. The most recent lawful development certificate issued was for the erection of a quadruple garage (20010075):



It would appear from the submitted plans that this lawful development was not fully implemented:



The greenhouse was erected but not the four bay garage. On the basis that this has been proposed in the past and not built it would appear reasonable to expect that the owners wish to build a four bay garage now albeit in a slightly different layout. Whilst it is some distance from the house, the fact that it has been proposed and approved in the past, would indicate that it has been considered incidental in the past and therefore should be considered incidental this time. The proposed building therefore falls to be assessed against the other criteria of the General Permission Development Order below.

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

Recommendation: Grant Lawful Development Certificate

	Name/Signature	Date
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Planning Officer		22 November 2021.
Team Leader		22 November 2021