

Appeal Statement



Written representations appeal for use of existing garage as annexe

At site address: Copse Cottage, Rickmansworth Road, Northwood, HA6 2QN

Statement prepared September 2021

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Background

This Appeal seeks to use the existing garage as a proposed annexe.

The existing garage building was erected following a consent in 2015 under 70467/APP/2015/3463 (Appendix 1).

The existing building would be repurposed to provide bedroom accommodation for use in association with the main dwelling.

As no change of use or development requiring consent arises and it was anticipated the Council would issue a Certificate of Lawfulness confirming the same.

The Council has erroneously determined the application under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015. This assessment suggests the Council were assessing the erection of a structure, when in fact the building already exists. The certification was sought to determine that no development was proposed and no change of use arose as set out in the Statement accompanying the application.

Site Description

The appeal site comprises a semi-detached property located on the corner of Rickmansworth Road and Copse Wood Way.

Figure 1: Location Plan



The property has a gable ended roof line with a two-storey side extension, including an integral garage at ground floor level which was approved for conversion to habitable space in 2015. There is also a two-storey rear projection with a single storey rear extension beyond. The rear garden is landscaped and there is parking to the front of the home.

To the south of the site lies the adjoining property, Brackendene with a similar two storey and single storey rear element. The street scene and local area is mainly residential in character and appearance. There is an area of open space with well-established trees on the opposite corner of the junction and there are open fields screened by trees to the rear.

Figure 2: Aerial View



Figure 3: Street View



The appeal site lies within the Green Belt as identified in the Hillingdon Local Plan: Part One - Strategic Policies (November 2012).

Figure 4: Existing garage



The outbuilding subject to this Appeal currently exists as a detached, flat roof building used as a garage with two single shutter openings. This was erected following the issue of a Certificate of Lawful Development in 2015 and has been used for garaging and storage since.

Site History

The following history is relevant to the site ;

70467/APP/2021/1223	Conversion of garage to habitable use as an annexe with alterations to elevations	Refused
70467/APP/2017/3823	Installation of dropped kerb to side	Approval
70467/APP/2016/2294	Porch to front (Application for a Certificate of Lawful Development for a Proposed Development	Approval
70467/APP/2015/3578	Conversion of attached garage to habitable use involving alterations to front and rear elevations	Approval
70467/APP/2015/3463	Single storey detached garage to rear	Approval
70467/APP/2014/4220	Single storey detached garage to rear	Refusal

Policy Context

Relevant Policies

Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) is relevant to the proposals as **the criteria were met when the structure was erected under application reference 70467/APP/2015/3463**. Legislation permits ;

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 dwellinghouse as such, or the maintenance, improvement or other alteration of such a building, or:
- b) A container used for domestic heating purposes for the storage of oil or liquid petroleum gas

The Town and Country Planning (General Permitted Development) (England) Order 2015 has been created as part of a general policy objective to consolidate a number of statutory instruments in relation to town and country planning in England. The Order is made under sections 59, 60, 61, 74 and 333 of the 1990 Act. The 2015 Order is made under these powers and grants planning permission for a range of predominantly minor development, subject to certain limitations and conditions. Development granted planning permission under the Order is known as “permitted development”, and the effect is that no

application needs to be made to the local planning authority to obtain planning permission, although in some cases the permitted development right is subject to “prior approval” from the local planning authority in relation certain specified matters. The garage was erected under this order.

Case Law

Case Law has established that ‘permission is not required to convert a garage in a residential curtilage to an annexe capable of independent accommodation, provided both it and the existing dwelling remain in the same planning unit’. (*Uttlesford District Council v Secretary of State for the Environment and White [1991]*)

See also:

Burdle v Secretary of State for the Environment (1972)

Emin v Secretary of State for the Environment (1989)

Wallington v Secretary of State for Wales (1991)

The definition of development as enshrined within Section 55 of The Town and Country Planning Act 1990 is also relevant,

“‘development”, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.’

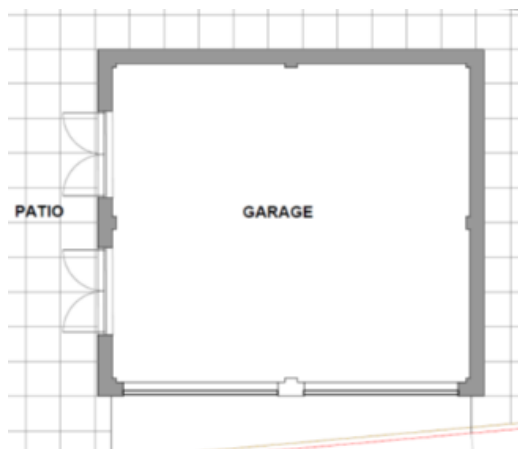
Proposed Development

The appeal application proposes to convert the existing outbuilding (granted a lawful certificate in October 2015 for use as a garage), into an annexe to be used for ancillary residential accommodation. This application is being made under the Town and Country Planning Act (General Permitted Development) (England) The Appellant contends that the proposals do not represent development as defined above and as such a certificate should be issued.

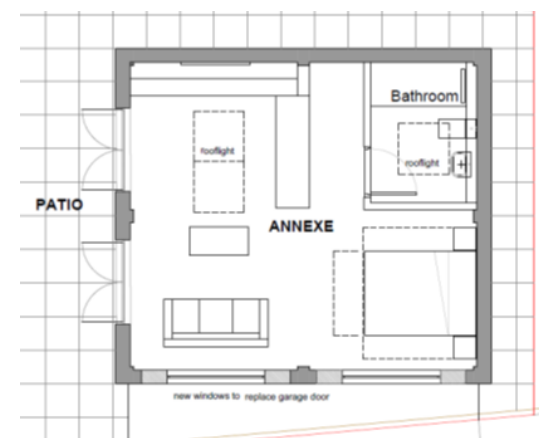
The existing and proposed building layouts are provided below ;

Figure 5 : Layout comparisons

Existing garage

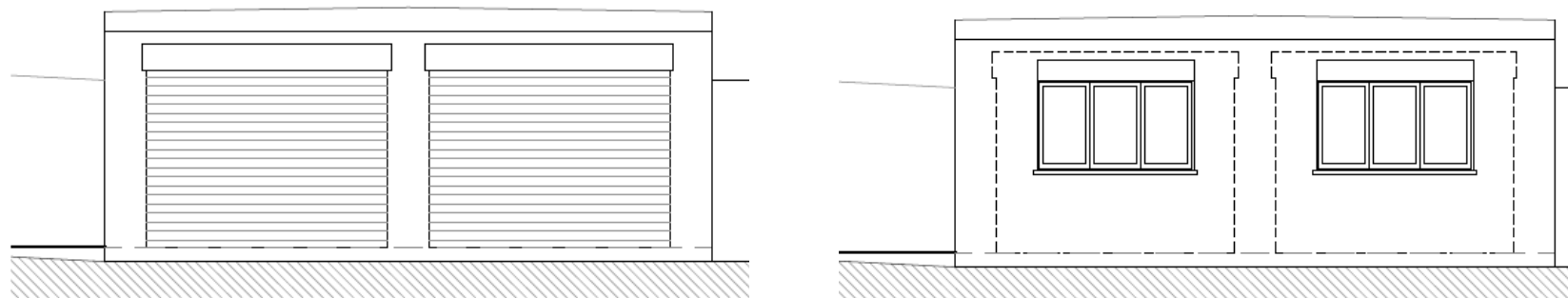


Proposed Annexe



Externally changes comprise alterations to the existing garage doors and side leading to the house.

Figure 6 : Existing and proposed front elevations



The changes required are merely the alteration of the garage openings to form windows.

Planning Appraisal

Consideration of uses:

In October 2015 a certificate was granted for the erection of the outbuilding under consideration for conversion now. The present garage replaced a previous garage building.

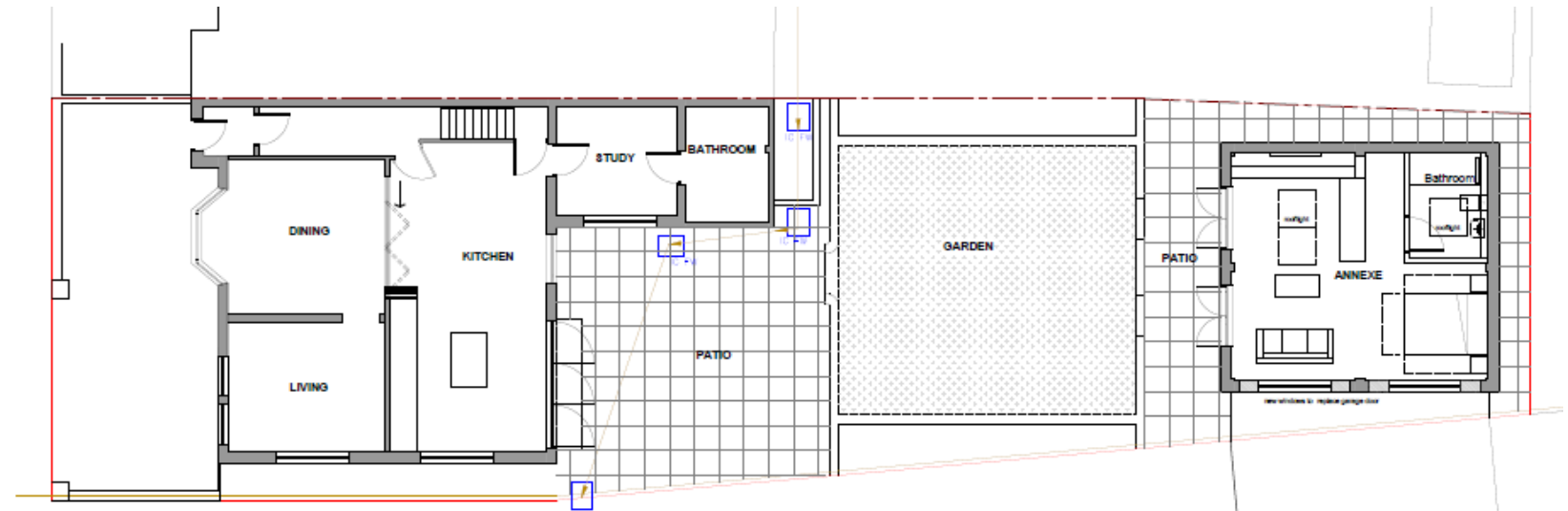
The outbuilding has been in use as a double garage, ancillary to the enjoyment of the dwellinghouse. It can be seen on site and in the latest google aerial and street view photographs. The outbuilding as erected has been used for ancillary purposes, i.e. the garaging of cars and storage of residential items.

It is considered that the change of existing ancillary residential outbuilding for primary residential accommodation (sleeping areas) would not constitute a material change of use of the building or land (both uses remaining under class C3 with no new unit of accommodation provided), a view which has also been established by a judgement relating to a similar conversion of a garage building in the Uttlesford District – see *Uttlesford District Council v Secretary of State (Uttlesford District Council v Secretary of State for the Environment and White [1991])*. This case established that ‘permission is not required to convert a garage in a residential curtilage to an annexe capable of independent accommodation, provided both it and the existing dwelling remain in the same planning unit’.

It is a matter of fact that **the annexe would share service arrangements with the existing dwelling, would share access onto the street through and alongside the existing building, would share garden and parking areas with the main property and would look onto the main home to a degree that is only acceptable when occupied by the same family unit as the relationship affords no privacy. Users of the annexe would also be dependant on access to the main property for full kitchen and laundry facilities. These ties to the main property make clear there is no new unit created.**

On this basis no change of use occurs as the planning unit remains a single C3 dwelling house before and after the proposed works.

Figure 7: The proposed ground floor layout



Consideration of Physical Works

The provision of differing fenestration in lieu of garage doors and internal works associated with the proposed annexe is accepted in general practice as not being works that materially affect the appearance of the building. "Material Affect" has no statutory definition but for the purposes of Section 55 of the Town and Country Planning Act this test is met. Were the garage to no longer need one of the door for instance this could be removed and replaced with wall or window without requiring planning permission. Thus the same approach applies with the proposed change to two window openings.

The Council Assessment

The Council has provided only a brief appraisal of the proposed development (Appendix 2) and has determined that the annexe use would not be incidental to the enjoyment of the dwelling house, instead considering the proposal tantamount to the creation of the new dwelling.

The Council's determination assesses the proposal as a new structure, applying the tests of Class E of the GDPO instead of considering whether the conversion of the building represents development as defined in Section 55 of The Town and Country Planning Act 1990. Procedurally this is inappropriate as the Appellant has not sought to erect a new building for use as an annexe, it is clear a conversion is sought. Relevant case law is included the prior policy and appraisal sections.

Summary and conclusions

Mindful of the above appraisal, the shift from ancillary to primary accommodation within the building and physical works required to conduct the conversion into an annexe, have identified no change of use or physical works requiring consent. The work fall beyond the definition of development for the purpose of S55 of the Town and Country Planning Act. Accordingly it is contended there is no trigger creating a need for planning permission and a certificate of lawfulness should have been issued.

The Local Authority has erred in the application of the relevant tests and accordingly this Appeal is now before the Inspector. It is hoped the Inspector can find in our favour.

Appendices

Appendix 1:

2015 Certificate of Lawful development for the erection of the existing garage 70467/APP/2015/3463



**Sections 191 and 192
(as amended by section 10 of the Planning and Compensation Act 1991)**

**TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995
ARTICLE 24**

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Mr & Mrs Thakerar
Copse Cottage
Rickmansworth Road
Northwood
HA6 2QN

Ref: 70467/APP/2015/3463

The Council of the London Borough of Hillingdon as the Local Planning Authority, hereby certifies that the proposed development referred to below would be lawful within the meaning of Section 192 of the above Act.

Description of development: Single storey detached garage to rear
Location of development: COPSE COTTAGE, RICKMANSWORTH ROAD,

Head of Planning & Enforcement

Date: 7 December 2015

Notes: Your attention is drawn to the attached sheet which sets out the rights of applicants who are aggrieved by the decision of the Local Planning Authority.

NORTHWOOD,

Date of Application: 12 October 2015

Plan Numbers: See attached Schedule of Plans

The grounds for the Council's decision are listed on the attached schedule:-

**Sections 191 and 192
(as amended by section 10 of the Planning and Compensation Act 1991)**

**TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995
ARTICLE 24**

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Application Ref: 70467/APP/2015/3463

SCHEDULE

The grounds for the Council's decision are as follows:-

- 1 · The proposed development constitutes permitted development by virtue of the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015.

This determination is based on your submitted plans. All measurements are taken from existing ground level.

INFORMATIVES

- 2 · The use of the outbuilding hereby approved shall be for the purpose(s) stated on the application form, drawing/s and the Design and Access Statement. Use of the outbuilding for purposes such as a living room, bedroom, kitchen, bathroom, study, a separate unit of accommodation or business use constitutes a primary use that is not incidental and likely to invalidate this certificate. Furthermore, the Local Planning Authority may pursue enforcement against breaches of planning control, which may involve legal action through the Courts.

- 3 · The Council will recover from the applicant the cost of highway and footway repairs, including damage to grass verges.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

For further information and advice contact - Highways Maintenance Operations,
Central Depot - Block K, Harlington Road Depot, 128 Harlington Road, Hillingdon,
Middlesex, UB3 3EU (Tel: 01895 277524).

END OF SCHEDULE

Address:

Residents Services
London Borough of Hillingdon
3 North Civic Centre, High Street, Uxbridge UB8 1UW
Tel: 01895 250230
www.hillingdon.gov.uk

**Sections 191 and 192
(as amended by section 10 of the Planning and Compensation Act 1991)**

**TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995
ARTICLE 24**

CERTIFICATE OF LAWFUL USE OR DEVELOPMENT

Application Ref: 70467/APP/2015/3463

Schedule of Plans

CC/201/15 Rev A - received 07 Oct 2015

Location Plan (1:1250) - received 07 Oct 2015

Block Plan (1:500) - received 07 Oct 2015

Proposed Site Layout Plan - received 07 Oct 2015

**RIGHTS OF APPLICANTS AGGRIEVED BY DECISION
OF LOCAL PLANNING AUTHORITY**

TOWN AND COUNTRY PLANNING ACT 1990

Application for Certificate of Lawfulness

Notes

If you are aggrieved by the decision of the Local Planning Authority to refuse an application for a certificate under Sections 191 or 192 of the Town and Country Planning Act 1990 (as amended) or to refuse it in part, you may appeal to the Department of Communities and Local Government (DCLG), under Section 195 of the Act (as amended).

Notice of appeal must be given in writing to the Planning Inspectorate, 3/02 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel; - 0117 372 8428).

Appeal forms can be downloaded from the Planning Inspectorate's website at

<http://www.planning-inspectorate.gov.uk>. Copies of all relevant documents, including the application, the notice of decision and all plans, drawings and correspondence, must be supplied to the Inspectorate.

You are advised to consult the brief official guide and appeals, published by the Department of Communities and Local Government (DCLG), this and appeal forms can be obtained from the Planning Inspectorate on request.

Address:

Residents Services
London Borough of Hillingdon
3 North Civic Centre, High Street, Uxbridge UB8 1UW
Tel: 01895 250230
www.hillingdon.gov.uk

Appendix 2:

Council report for the refused certificate subject to this Appeal

DELEGATED DECISION

- Please select each of the categories that enables this application to be determined under delegated powers
 - Criteria 1 to 5 or criteria 7 to 9 must be addressed for all categories of application, except for applications for Certificates of Lawfulness, etc.

APPROVAL RECOMMENDED: GENERAL

Select Option

1. No valid planning application objection in the form of a petition of 20 or more signatures, has been received ☐
2. Application complies with all relevant planning policies and is acceptable on planning grounds ☐
3. There is no Committee resolution for the enforcement action ☐
4. There is no effect on listed buildings or their settings ☐
5. The site is not in the Green Belt (but see 11 below) ☐

REFUSAL RECOMMENDED: GENERAL

6. Application is contrary to relevant planning policies/standards ☐
7. No petition of 20 or more signatures has been received ☐
8. Application has not been supported independently by a person/s ☐
9. The site is not in Green Belt (but see 11 below) ☐

RESIDENTIAL DEVELOPMENT

10. Single dwelling or less than 10 dwelling units and/or a site of less than 0.5 ha ☐
11. Householder application in the Green Belt ☐

COMMERCIAL, INDUSTRIAL AND RETAIL DEVELOPMENT

12. Change of use of retail units on site less than 1 ha or with less than 1000 sq m other than a change involving a loss of A1 uses ☐
13. Refusal of change of use from retail class A1 to any other use ☐
14. Change of use of industrial units on site less than 1 ha or with less than 1000sq.m. of floor space other than to a retail use. ☐

CERTIFICATE OF LAWFULNESS

15. Certificate of Lawfulness (for proposed use or Development) ☐
16. Certificate of Lawfulness (for existing use or Development) ☐
17. Certificate of Appropriate Alternative Development ☐

CERTIFICATE OF LAWFULNESS

18. ADVERTISEMENT CONSENT (excluding Hoardings) ☐
19. PRIOR APPROVAL APPLICATION ☐
20. OUT-OF-BOROUGH OBSERVATIONS ☐
21. CIRCULAR 18/84 APPLICATION ☐
22. CORPSEWOOD COVENANT APPLICATION ☐
23. APPROVAL OF DETAILS ☐
24. ANCILLARY PLANNING AGREEMENT (S.106 or S.278) where Heads of Terms have already received Committee approval ☐
25. WORKS TO TREES ☐
26. OTHER (please specify) ☐

The delegation powers schedule has been checked. Director of Residents Services can determine this application.

Case Officer

Signature:

Date:

A delegated decision is appropriate and the recommendation, conditions/reasons for refusal and informatives are satisfactory.

Team Manager:

Signature:

Date:

The decision notice for this application can be issued.

Director / Member of Senior Management Team:

Signature:

Date:

NONE OF THE ABOVE DATES SHOULD BE USED IN THE PS2 RETURNS TO THE ODPM

Report of the Head of Planning, Transportation and Regeneration

Address COPSE COTTAGE RICKMANSWORTH ROAD NORTHWOOD

Development: Conversion of garage to habitable use for use as an annex with alterations to elevations (Application for a Certificate of Lawful Development for a Proposed Development).

LBH Ref Nos: 70467/APP/2021/1223

Drawing Nos: A0-100 Rev. B
A1-110 Rev. B
A1-211 Rev. B
A2-211 Rev. B
A2-110 Rev. C
A1-210 Rev. B
A2-113 Rev. B
A1-113 Rev. B
A1-110 Rev. B
A2-210 Rev. B
Planning Statement

Date Plans Received: 26/03/2021

Date(s) of Amendment(s):

Date Application Valid: 08/04/2021

1. RECOMMENDATIONS

1.1 Recommendations

That a certificate of lawful use or development be **REFUSED** for the proposed development described above in respect of the land edged red on the attached plans for the following reasons:

The proposed development does not constitute permitted development by virtue of the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 as the proposal would be tantamount to the creation of a self contained separate dwelling which could not be considered to result in the provision of a building required for a purpose incidental to the enjoyment of the dwellinghouse as such.

This determination is based on your submitted plans. All measurements are taken from existing ground level.

INFORMATIVES

2.0 Planning Considerations

The use of the outbuilding as a self-contained annexe, with living area, potential kitchen area, bedroom and bathroom is not considered to be incidental to the use of the dwellinghouse and would be tantamount to the creation of a separate dwelling, capable of separate occupation and use. The proposed use of the outbuilding would not therefore fall

within the conditions of Class E.

3.0 Relevant Planning History

70467/APP/2014/4220 Copse Cottage Rickmansworth Road Northwood

Single storey rear extension, installation of roof terrace to first floor and conversion of attached garage to habitable use involving alterations to front elevation

Decision Date: 02-02-2015 Refused

70467/APP/2015/3463 Copse Cottage Rickmansworth Road Northwood

Single storey detached garage to rear

Decision Date: 07-12-2015 Approved

70467/APP/2015/3578 Copse Cottage Rickmansworth Road Northwood

Conversion of attached garage to habitable use involving alterations to front and rear elevations

Decision Date: 17-12-2015 Approved

70467/APP/2016/2294 Copse Cottage Rickmansworth Road Northwood

Porch to front (Application for a Certificate of Lawful Development for a Proposed Development)

Decision Date: 12-08-2016 Approved

70467/APP/2017/3823 Copse Cottage Rickmansworth Road Northwood

Installation of dropped kerb to side

Decision Date: 30-01-2018 Approved

4.0 ALL CLASSES

Is the dwelling a flat or a maisonette?

NO

Is there a planning condition removing permitted development rights?

NO

Is the building listed/ in a Conservation Area?

NO

CLASS E - Outbuildings

Does the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)?

NO

Does 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?

NO

Does the building have more than one storey?

NO

Does the height of the building, enclosure or container 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 the dwellinghouse, or
- (iii) 3 metres in any other case?

NO

Does the height of the eaves of the building exceed 2.5 metres?

NO

Is the building, enclosure, pool or container situated within the curtilage of a listed building?

NO

Does it include the construction or provision of a veranda, balcony or raised platform (means a platform with a height greater than 300 millimetres)?

NO

Does it relate to a dwelling or a microwave antenna?

NO

Does the capacity of the container exceed 3,500 litres?

NO

In the case of any land within the curtilage of the dwellinghouse which is article 1(5) 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

NO

5.0 Other including Measurements

The key issue to be considered is whether the proposed use would be incidental to the enjoyment of the main dwelling house and therefore considered to be ancillary and incidental to the enjoyment of the dwelling house as set out in Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015.

The use of the outbuilding as a self-contained annexe, with living area, bedroom, potential kitchen area and bathroom is not considered to be incidental to the use of the dwellinghouse and would be tantamount to the creation of a separate dwelling, capable of separate occupation and use. The proposed use of the outbuilding would not therefore fall within the conditions of Class E.

The applicant has stated in the application form the intended use of the outbuilding will be an annexe incidental to the main dwellinghouse. However, the plans show the presence of a potential kitchen area and it could be assumed cooking facilities

would allow the outbuilding to be used as a separate unit independent of the main dwelling.

Contact Officer: Mandeep Chaggar

Telephone No: 01895 250230