

FAO Sharoz Ilyas

Ref: Objection to application ref: 2024/CLD/93043/E

I write to object to pending application ref: 2024/93043, which seeks the grant of a certificate of lawfulness for the proposed erection of single storey side extensions, outbuilding and front porch. The reasons for the objection are set out below.

Purpose of Outbuilding

As you'll be aware, Class E of schedule XXX permits *any building 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;*

Permitted development rights for householders: technical guidance, published in September 2019, provides further guidance:

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.

The applicant has not revealed what the use of the proposed outbuilding would be, other than labelling it for *leisure* purposes on the submitted drawings. Without a detailed drawing, it is impossible to determine whether the outbuilding, which is a disproportionately large structure, would be used for purposes incidental to the enjoyment of the dwellinghouse. What sort of incidental use would require a building of such a large footprint? Again, officers will be aware that the technical guidance set out above states that *normal residential uses* would not be permitted in such outbuildings. The applicant must demonstrate that the outbuilding will be used for incidental purposes, and in doing so, justify why such a large outbuilding is required to accommodate such.

The onus is on the applicant to demonstrate that, taken on the balance of probabilities, the proposed outbuilding would be used solely for purposes incidental to the enjoyment of the dwellinghouse. The application should be refused given the lack of sufficient evidence to satisfy this fundamental requirement of Class E of the permitted development rights.

Curtilage

The applicant maintains that the proposed side extensions, outbuilding and porch, would benefit from the permitted development which apply to *development within the curtilage of a dwellinghouse*. I would ask that officers give close consideration to whether or not all of the proposed structures fall within the curtilage of the dwellinghouse.

It is noted that under application ref 2006/46/90798/E1, a previous applicant applied for a certificate of lawfulness to confirm that the land outlined in red on the plan extract below had

been used as residential garden continuously for a period of ten years or more. This was granted in August of 2006.



However, the red line associated with that application did not include land upon which part of the proposed outbuilding is sited. In particular, the yellow box below was excluded from this 2006 application, albeit it is unclear why. This begs the question as to the formal land use of land upon which the outbuilding is situated. Why was it not included in that particular application?

Although garden area and curtilage are two distinct and separate matters in planning terms, this begs the question whether or not the outbuilding is situated on land that would fall within the curtilage of the dwellinghouse. The permitted development rights that the applicant seeks to exercise, relate solely to development falling within the curtilage of a dwellinghouse.

Conclusion

For these reasons, I would ask that the application is refused, given the issues identified in this correspondence.

Please keep me informed of any further updates relating to the application.

Regards,