DELEGATED DECISION REPORT

SMD/2020/0109 **Valid 02/03/2020**	**HIGHFIELD HOUSE SCHOOL LANE** **LONGSDON**	**CERTIFICATE OF LAWFULNESS FOR A PROPOSED DETACHED GARAGE** **(CERTIFICATE OF LAWFULNESS - PROPOSED)**

MAIN ISSUES

- Consider whether domestic Permitted Development Rights apply to the land in question and if so;
- to consider whether the plans for the proposed detached garage comply with Class E.

DESCRIPTION OF SITE

The application site is Highfield House, School Lane, Longsdon, a detached dwelling occupying a corner plot of land at the junction with Leek Road. The dwelling sits within a generously sized, rectangular shaped plot of land which allows for off-road parking and external amenity space. Within the grounds is a rectangular shaped, pitched roof, double garage building which has recently secured consent for its conversion to a holiday let, this building sits immediately beside the eastern boundary. There are two vehicular accesses off School Lane. The southern access leads directly to the larger area of domestic parking. The roadside boundaries consist of red brick and stone walls. There are land level variations within the site; generally there is a gradual rise from the west towards the eastern side of the plot.

The application site is located within the Green Belt. The property does not lie within any Conservation Area, there are no Listed buildings no records of any Tree Protection Orders.

PROPOSAL

This application seeks a certificate of proposed lawful development for the erection of a detached, pitched roof garage at Highfield House, School Lane, Longsdon. The building would have an 'L' shaped footprint with the internal space used as a garage, bike storage area and separate WC. The plans show the maximum ridge height to be 3.998m with eaves height of 2.5m. Roofing materials are to be blue/grey tiles with the walls of red/brown facing brickwork. The building would be located to the north of the Highfield House dwelling. A number of window and door openings would be inserted; a large garage door within the northern facing elevation and smaller window and door openings within the other walls.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

The application is for a certificate of lawfulness and therefore planning policies (local and national) are not applicable in the determination of this case. Determination of this application relates solely to whether the land benefits from domestic Permitted Development

Rights and if so whether the proposed garage complies with the allowances of the General Permitted Development Order (2015) (as amended), Schedule 2, Part 1, Class E.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

93/0456/OLD	Outline application for residential development including details of means of access. Refused and appeal dismissed.
09/00023/FUL	Two-storey side extension. Approved.
SMD/2014/0603	Proposed new access. Approved.
SMD/2015/0231	New Dwelling. Refused.
SMD/2016/0363	New Dwelling. Withdrawn.
SMD/2017/0516	Detached Dwelling. Refused.
SMD/2019/0736	Proposed Change of Use from garage to holiday accommodation. Approved.

CONSULTATIONS

None. Not applicable for a certificate of proposed lawful development.

OFFICER COMMENTS

The application is for a pitched roof, detached garage at Highfields House School Lane Longsdon and as such consideration of The General Permitted Development Order (2015) (as amended), Schedule 2, Part 1, Class E is the part of the GPDO is required. The application site is located within the Green Belt. The property does not lie within any Conservation Area; there are no Listed buildings and no records of any Tree Protection Orders.

The accompanying Planning Statement informs that the building would be required for a purpose incidental to the enjoyment of the dwelling house. Permitted Development rights relating to Highfield House do not seem to have been removed.

Existence of domestic Permitted Development Rights

Notwithstanding the details of the building shown on the accompanying plan 5764-PD-01 Rev A the first point to consider is whether the piece of land upon which the building is intended to be erected does actually benefit from domestic Permitted Development Rights.

The site visit confirmed that the land as identified within the red edge on the submitted plan is all open with ease of access from one end of the plot to the other but appears to be very large in relation to the existing dwelling. To the south of the red edge area is the detached Highfield House, to the north of the dwelling there are outbuildings, grass land, an area of hard-core type surfacing and a block paved parking area.

It is clear that the area of land where the proposed garage would be built is not part of the original domestic curtilage belonging to Highfield House. Historic Ordnance Survey maps

show a clear separation/boundary line between the house itself and a smaller piece of land immediately to the west and the land to the north (currently used for parking and amenity purposes including the proposed location of the detached building the subject of this Certificate). O.S maps show that the proposed building land to the north of the dwelling was once separated and had tree coverage. Over time it is apparent that the land has been incorporated into a single parcel (as shown via the red edge and confirmed by the site visit) and domestic activities have encroached into Green Belt land. In addition to the historic maps, aerial photographs held by the council (2006 and 2011) show a row of trees planted along the original boundary line between the original domestic curtilage and the land which has later been incorporated to form the red edge. There is clear definition and separation between land that would obviously perform as 'curtilage' for the application of domestic permitted development rights and the land beyond where the proposed garage building would be located.

Whilst the applicants state they use the land as a garden, this does not make it domestic curtilage for the purposes of applying the tests within Schedule 2, Part 1, Class E of The General Permitted Development Order. For the above reasons it is concluded that the land does not benefit from Class E rights and therefore the proposed building is not permitted development and a certificate of proposed lawful development cannot be issued.

Incidental Use

Whilst the existence of permitted development rights and 'curtilage' are the first matters to consider, the council has received detailed elevation and floorplan drawings. In the event that Permitted Development rights did exist, Class E allows for works including (relevant to this application);

'*The provision within the curtilage of the dwellinghouse of—*

(a) any building or enclosure, swimming or other pool required for a purpose ***incidental*** *(*my emphasis) *to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure;*

Strictly speaking the building does fall within the limitations of Class E in terms of size. However, in addition to the question of whether or not Class E rights apply (and it is concluded that they not) the question of 'incidental' must be addressed. The building has a very large footprint which clearly competes with the footprint size of the existing house (shown on submitted site plan). The building would have an 'L' shaped footprint with its largest measurements being 11m x 9m. The applicants indicate that the building is to be used for the maintenance of a motorhome, bike storage and provision of a WC. The proposed floor plan shows significant amounts of space surrounding the vehicle as well as areas against the inner sides of the walls which appear to indicate workbenches/storage cupboards. Even allowing a working area, and to open doors, store tools etc, the space around the vehicle appears excessive

Inspectors have concluded that each case is fact sensitive and that the right approach based on case law is to apply an element of objective reasonableness. The question of whether the proposed new building is '*reasonably required'* should be asked as there is already outbuilding accommodation/provision within the site. It may be the case that none of the existing outbuildings are high/large enough for the motorhome to be stored but it has not been demonstrated why existing buildings cannot be used for bike storage and WC facilities and the continued workshop use. The accompanying Planning Statement (section 9) confirms that one of the existing outbuildings is used as a storage shed whilst the other is a workshop which, in itself, appears to be a large/generously proportioned building. Both buildings appear to be in good structural condition and no arguments have been submitted

to the contrary. Notably the workshop (larger of the two buildings) has recently secured consent for its conversion to a holiday-let; the Planning Statement informs that neither of the two existing buildings provides enough working area or storage for the applicants needs. These are two generously sized buildings; combined they provide much more outbuilding space than many domestic properties enjoy. It is not known why so much working space/storage area is needed. The fact that there is already provision within the site goes to the heart of considering what is '*reasonably required.'* Case law has established that some element of reasonableness has to be applied and a common thread appears to be that Inspectors have concluded it is not sufficient for an applicant to simply say more space is needed; there must be some consideration of any existing space available..

CONCLUSION / PLANNING BALANCE

For the above reasons it is not considered that a Certificate of proposed Lawful Development can be issued. It has been found that the proposed building site does not benefit from Class E domestic permitted development rights and secondly it has not been demonstrated that the building is 'incidental to the enjoyment of the dwellinghouse' in terms of its overlarge size and whether it is reasonably required.

OFFICER RECOMMENDATION: Refuse

Case Officer: Lisa Jackson
Recommendation Date: 03/08/2020.

X B.J. Haywood

Signed by: Ben Haywood
On behalf of Staffordshire Moorlands District Council