

DELEGATED DECISION REPORT

SMD/2021/0520
Valid 13/08/2021

BANK TOP COTTAGE
RAKEWAY ROAD
CHEADLE

**CERTIFICATE OF
LAWFULNESS FOR
PROPOSED CHANGE OF USE
FROM ANCILLARY GARDEN
AREA TO USE AS A
DOMESTIC VEHICLE GARAGE
AND STORE WITH EXTENDED
DRIVEWAY**

**(CERTIFICATE OF
LAWFULNESS - PROPOSED)**

MAIN ISSUES

Would the construction of the garage and driveway hardstanding be permitted by Class E and F Part 1 of the GPDO?

DESCRIPTION OF SITE

A roughly square shaped parcel of land within the applicant's ownership, adjacent to their large semi-detached rural cottage. The land is to the edge of an ancient woodland. The land is described in the application as ancillary garden land.

PROPOSAL

The submission is slightly confused in that the forms describe the development as a change of use from garden to domestic garaging, but the agent's statement and the submitted plans describe and detail the operational development consisting of the construction of a garage and store and a driveway hardstanding.

It seems the applicant ultimately proposes the construction of a building that would be for purposes incidental to the enjoyment of the dwellinghouse. Such development would require planning permission, unless it is provided for and permitted by the terms of the GPDO. The best and most logical way of dealing with this application is to consider whether that would be the case here.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

In 2003 an enforcement complaint was raised with the Council about a roadside fence that the then owner had erected to the front of the land, blocking a path access that is not identified as an official public right of way. The file notes indicate that the Council did not consider it to be a breach of planning control, but that the then owner was warned, and agreed, not to use or landscape the land behind the fence as garden.

OFFICER COMMENTS

To be permitted the development must be carried out within the curtilage of the dwellinghouse.

The proposed garage would be built on a square shaped tab of land edged red on the site plan, adjacent to the dwelling and the more regular, roughly rectangular, area of land that surrounds the dwelling and most obviously provides its curtilage. The square area of land forms a bit of a limb from the land that otherwise surrounds and contains the dwellinghouse, it is to the edge of ancient woodland and pro. The land was not included in the red edge assigned to the 1988 planning permission (88/00258/OLD) for garage and utility room extension. Historic maps and aerial photographs, right up to present day, do not provide any indication or evidence that the square land parcel has been contained or enclosed with, or used usefully as part of the dwelling's curtilage. On the ground there is a clear wall boundary line and step up in levels separating the existing driveway from the square area of land. For all of these reasons, the land is not considered to be within the curtilage of the dwellinghouse and any form of householder development carried out on this land would not be permitted by the GPDO.

Moreover, even if the land were part of the dwelling's curtilage, it is clear from street view photographs and those submitted with the application, that there is a step up in ground levels that would require some form of excavation and ground levelling to provide a driveway access and footings for the garage. This type of operation is not permitted householder development at Part 1 of the GPDO. Also, the proposed garage would be almost 4m in height and less than 2m from what would be curtilage boundary, at this proximity it would be limited to a height of 2.5m.

CONCLUSION / PLANNING BALANCE

The development would not be permitted by the GPDO.

OFFICER RECOMMENDATION : REFUSE

Case Officer: Ben Hurst

Recommendation Date: 08/10/2021

X 

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council