DELEGATED DECISION REPORT

SMD/2023/0278 **VALID 07/06/2023**	**161, PARK LANE, KNYPERSLEY, STAFFORDSHIRE, ST8 7PN**	**APPLICATION FOR A LAWFUL DEVELOPMENT CERTIFICATE FOR PROPOSED ERECTION OF OUTBUILDING (CERTIFICATE OF LAWFULNESS – PROPOSED)**

MAIN ISSUES

Whether the proposed development complies with the relevant parameters under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

DESCRIPTION OF SITE

The application dwelling is lies within the Green Belt as defined by the Local Plan policies map. The site relates to a large detached bungalow which is located within ribbon development along Park Lane. The dwelling enjoys a large rear garden beyond which is the countryside. A detached garage is located to the front of the dwelling, accessed via a driveway and gated access off Park Lane. The dwelling is sited on higher land than the public highway.

PROPOSAL

The application seeks a Lawful Development Certificate for a detached outbuilding, suggesting that the proposed development complies with all parameters set out under Schedule 2, Part 1 of the General Permitted Development Order (GPDO).

PLANNING HISTORY

SMD/1989/0438 - Conversion of flat roof to pitched roof on bungalow – Approved – 10/10/89

SMD/2014/0370 - Proposed single storey side & rear extension – Approved – 06/08/14

SMD/2018/0745 - Proposed garage conversion & replacement detached garage – Approved – 21/01/19

SMD/2023/0041 - Proposed level changes and concrete base, and driveway works – Approved – 30/03/23

SMD/2023/0042 - Rear extension, internal alterations, and air source heat pump – Approved – 28/04/23

OFFICER COMMENTS

Whether the proposed development complies with the relevant parameters under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

Schedule 2, Part 1 of the GPDO refers to development that lies within the domestic curtilage of a residential dwellinghouse. Specifically, Class E permits the construction of buildings etc incidental to the enjoyment of a dwellinghouse, subject to compliance with all criteria set out under Paragraph E.1, E.2 and E.3.

In this instance, the scheme includes engineering operations, through land level changes, excavations and laying of hardstanding to facilitate the development which are considered to be outside of the scope of the GPDO and require planning permission in their own right.

Planning permission has recently been granted for the works, under permission SMD/2023/0041. The submitted statement for that application confirms that *"The existing land levels gently slope away in a northerly direction, and it is proposed to reduce these by a maximum of 0.85 metres and provide a ramped access alongside. The intention is to then erect a domestic outbuilding on the lowered parcel of land utilising existing provisions available to the applicant under Permitted Development".*

These works are included within this lawful development certificate and would need to have been completed before the outbuilding could potentially be considered under the requirements of the GPDO (assessment below). The submitted statement does not confirm that the works have been carried out, and clarification has been sought as to whether, on the date that the LDC application was submitted, the works have been completed. No response has been received and therefore the LPA has insufficient information to determine whether the works which require planning permission have been completed. As the works are part and parcel for the erection of the outbuilding, as detailed on the approved plans, the LPA cannot be satisfied that the development siting of the outbuilding would be lawful under the GPDO.

Notwithstanding the above, an assessment of the proposed development against the criteria of Class E is carried out below:

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.

It is necessary to consider whether the proposed building would be incidental to the enjoyment of the dwellinghouse. Paragraph E.4 of Class E indicates that purposes incidental to the enjoyment of the house includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the house. Householder Technical Guidance goes on to advose that *"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 building in this instance would, primarily, provide for a garden room which in isolation could be considered to be incidental. The scheme also includes a small w/c and worksurfaces, within the garden room, that includes a sink. The small w/c and the provision of a sink are not considered to result in the provision of primary living accommodation and it is considered that the building would remain incidental in this regard. The outbuilding is also relatively large, although in the context of the scale of the host dwelling and the size of the residential curtilage it is considered to be proportionate and would remain incidental in scale terms also.

It is considered that the building, in terms of its footprint and accommodation provided only, would fall under Class E(a) as a building under which permitted development rights apply.

E.1 Development is not permitted by Class E if –

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);

The dwelling has not been subject to a change of use under the GDPO. The development complies.

(b) the total area of ground covered by buildings, 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);

The proposed development would not result in the loss of more than 50% of the curtilage. The development complies.

(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;

The building would be sited to the rear and not forward of the principal elevation. The development complies.

(d) the building would have more than a single storey;

The building would be single storey. The development complies

(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 the dwellinghouse, or
(iii) 3 metres in any other case;

The building would be sited within 2m of the site boundary. The submitted plans indicate that the building would be 2.5m in height to its flat roof, below a parapet wall. The parapet wall would bring the height of the outbuilding above 2.5m in height and therefore would fail to meet the parameters of e(ii).

While the Householder Technical Guidance states that the height of a parapet wall should be excluded from a calculation, this is only when considering the height of the eaves of an extension under Class A. This does not relate to Class E which is clear on overall height limitations. This is supported by appeal decisions.

The development does not comply

(f) the height of the eaves of the building would exceed 2.5 metres;

Applying the Technical Guidance test for eaves under Class A, the development would comply as the height to eaves below the parapet would be 2.5m.

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;

The building would not fall within the curtilage of a Listed Building. The development complies.

(h) it would include the construction or provision of a verandah, balcony or raised platform;

The proposal does not include a verandah, balcony or raised platform. The development complies.

(i) it relates to a dwelling or a microwave antenna;

The outbuilding does not relate to a dwelling or microwave antenna. The development complies.

(j) the capacity of the container would exceed 3,500 litres.

The development does not relate to a container that exceeds 3,500 litres. The development complies.

(k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).

The dwelling has not been built under Part 20. The development complies.

E.2 In the case of any land within the curtilage of the dwellinghouse which is within—
(a) an area of outstanding natural beauty;
(b) the Broads;
(c) a National Park; or
(d) a World Heritage Site,
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

No land within the curtilage of the dwellinghouse is within the specified designated sites. The development complies.

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.

No land within the curtilage of the dwellinghouse is within Article 2(3) land. The development complies.

CONCLUSIONS

Insufficient information has been provided to demonstrate that the works which require planning permission have been completed on the date of the application. In addition the development would fail to comply with the parameters and limitations set out in E.1 and B.1, and as such would not be lawful. Therefore it is recommended that the Certificate be refused.

OFFICER RECOMMENDATION: Refuse Certificate

Case Officer: Declan Cleary
Recommendation Date: 31/07/23

X B.J. Haywood

Signed by: Ben Haywood

On behalf of High Peak Borough Council