

DELEGATED DECISION REPORT

SMD/2023/0071
Valid 07/02/2023

116 ASH BANK ROAD
WERRINGTON

LAWFUL DEVELOPMENT
CERTIFICATE FOR A PROPOSED
ERECTION OF NEW DETACHED
DOUBLE GARAGE

(CERTIFICATE OF LAWFULNESS
- PROPOSED)

MAIN ISSUES

- Consider whether the proposed rear extension complies with Class E Permitted Development Rights.

DESCRIPTION OF SITE

Number 116 Ash Bank Road is a large, detached dwelling sat within a generously sized, rectangular shaped curtilage. Land levels drop steeply from Ash Bank Road towards the rear of the plot and there are residential properties on both sides of the site. The property benefits from off-road parking space and garden areas.

PROPOSAL

The application is for a certificate of lawfulness for a detached garage on the eastern side of the dwelling. The garage would have a footprint of 7.043m x 8.0m, would have two single-width garage doors within the southern facing elevation. When viewed from the southern elevation, the hipped roof would have an overall height of 4.182m and an eaves height of 2.286m. There would be a single window within the eastern elevation. Proposed building materials are brick and tile to match the existing house. The plans also show the intention of converting the lower ground floor workshop to a bedroom however these works are not included in the application description, therefore consideration is given only to the Class E criteria for the detached garage.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

The application is for a certificate of lawfulness and therefore Local and National Planning Policies cannot be applied. Determination of this application relates solely to whether the proposed garage complies with the domestic permitted development rights allowances within the General Permitted Development Order (2015) (as amended), Schedule 2, Part 1, Class E.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

NMA/2017/0003	Non-material amendment to 08/00889/FUL for: - Omission of extension to ground floor - Omission of balustrades to first floor balcony; addition of Juliette balcony to first floor double doors - Reduction to size of door and window openings to existing ground floor room; change in ground
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	floor balustrade from painted steel to stainless steel with glass intermediate panels; alterations to window and door openings to lower ground floor extension. Approved.
08/00889/FUL	Single storey rear and first floor side extensions alterations to roof and rear balconies. Approved.
07/00329/FUL	Reinstatement of vehicular access. Approved.
06/01126/OUT	Erection of a dwelling and new vehicular access to existing dwelling (outline). Refused and dismissed at appeal.
03/00355/FUL	Timber deck to the rear. Approved.
89/00248/OLD	Site for one dwelling. Approved.
90/01009	Vehicular access. Approved.

OFFICER COMMENTS

The General Permitted Development Order (2015) (as amended), Schedule 2, Part 1, Class E is the part of the GPDO to be considered in respect of a detached garage. The application dwelling is not a Listed Building, the site does not form part of any Conservation Area and there are no TPO's within the application site. There is no record of Permitted Development Rights being removed from this property.

Class E rights allow for a domestic outbuilding subject to compliance with a number of regulations. Class E criteria are highlighted in *Italics* (below) with officer assessment/responses set out afterwards and underlined for ease of reference.

Development not permitted

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). Complies as the house was not granted consent under any of these classes.

(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). Proposal complies. The application site is a large plot of land and construction of the garage will not result in development exceeding the 50% allowance.

(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. Scheme complies, garage does not sit forward of the principal elevation.

(d) the building would have more than a single storey. Complies, the building would not have more than a single storey.

(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. N/A as the roof is not 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. The garage is further than 2.0m away from the boundary.

(iii)3 metres in any other case. When viewed from the southern side of the building (where the garage doors are), the plans show the garage as having a height of 4.182m. However, for the purposes of measuring height, the 'Permitted development rights for householders, Technical Guidance,' explains that 'The height of the building, enclosure or container should be measured from the highest ground level immediately adjacent to the building, enclosure, or container to its highest point.'

In this instance the plans show that the garage is to be built within a sloping ground area. The plan shows the highest land level being at the rear of the garage/northern side. When height is measured from the top of the adjacent land, the garage building extends to 2.902m to its ridge. For this reason it is considered that the building complies with this regulation.

(f)the height of the eaves of the building would exceed 2.5 metres. Scheme complies. The eaves height is less than 2.5m.

(g)the building, enclosure, pool or container would be situated within the curtilage of a listed building. Complies. The proposed garage is not within the curtilage of a listed building.

(h)it would include the construction or provision of a verandah, balcony or raised platform. Not applicable. No verandah, balcony or raised platform is proposed.

(i)it relates to a dwelling or a microwave antenna; Not applicable.

(j)the capacity of the container would exceed 3,500 litres. Not applicable.

(k)the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses). Not applicable as the dwelling was not constructed under Part 20.

CONCLUSION / PLANNING BALANCE

For the reasons outlined above it is recommended that the Certificate of Lawfulness is approved. The application site lies within a Coal Development area and therefore it is considered appropriate to make reference to this on the decision notice with a reminder to the applicant/developer.

OFFICER RECOMMENDATION : Approve

Case Officer: Lisa Jackson

Recommendation Date: 02/08/2023

X *J. Colley*

Signed by: Jane Colley Signature

On behalf of Staffordshire Moorlands District Council