

Received Date	24 September 2024
Expires:	19 November 2024
Application Number:	242408
Site:	Little Wheatlands, Fleet Hill, Finchampstead, Wokingham, RG40 4QG
Application:	Application for a certificate of lawfulness for the proposed erection of a detached outbuilding.

1. Relevant Planning History

Application Number	Proposal	Decision Date	Decision	Relevant Conditions
879/57	Addition	12/11/1957	C/A	None
R/20/63	Additions	21/02/1963	C/A	None
R/123/64	Additions	20/05/1964	Approved	None
31133	Two storey rear extension	20/07/1988	C/A	None
36954	Single storey rear extension	09/01/1991	C/A	None
40166	Construction of manege	15/01/1993	C/A	None
40167	Single storey front extension to garage and pitched roof	16/12/1992	Approved	None

2. Site Description

Two storey detached property.

3. Land/ Property Designations

- There are no listed buildings at the site and the property is not within 'Article 2(3) land' (Town and Country Planning (General Permitted Development) Order 2015).
- The site is not subject to any relevant wildlife or habitat designations.
- The site is situated within countryside.

4. Legislation

Town and Country Planning Act 1990 (as amended)

- s.55 Provides that '*development*' includes the carrying out of building operations on land, and '*building operations*' includes structural alterations or additions to buildings.
- s.57 Planning permission is needed for all development of land.
- s.187a Enforcement for breach of conditions
- s.192 Applications for Certificates of Lawfulness of proposed use or development.
- s.191 Defines operations as 'lawful' if:
- (a) No enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
- (b) They do not constitute a contravention of any of the requirements of any enforcement notice then in force.

Town and Country Planning (General Permitted Development) Order 2015 (GPDO)

- Article 3 In conjunction with Schedule 2 (Part 1) (Class E) grants planning permission for the erection of certain outbuildings, pools and fuel storage containers within the curtilage of a dwellinghouse.
- Article 4 Provides that the planning authority may give direction to restrict the effect of Article 3.

5. The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

6. Relevant details of the proposal:

Proposed erection of a detached outbuilding.

7. Assessment against legislation:

			Yes	No
s.55	1	Does it constitute development?	✓	
s.191	2	Would it be contrary to an enforcement notice?		✓
s.187a Art.3	3	Would it be contrary to any condition imposed by any planning permission granted or deemed to be granted?		✓
Art.3 (5)	4	Are the building operations involved in the construction of the dwellinghouse lawful?	✓	
Art.4	5	Is there an 'Article 4 Direction' in effect for the site?		✓
Art.4	6	Is it within the curtilage of the dwellinghouse?		*✓

Fuel storage

Sch.2 Pt. 1 E.b	7	Does the development consist of a container used for the storage of oil or liquid petroleum gas?	N/A	N/A
Sch.2 Pt. 1 E.b	8	Is the storage for domestic heating purposes?	N/A	N/A
E.1(j)	9	Would the capacity of the container exceed 3,500 litres?	N/A	N/A

Outbuildings and pools

Sch.2 Pt. 1 E.a	10	Does the development comprise a building or enclosure, swimming or other pool, or the maintenance, improvement or other alteration of such a building or enclosure?	✓	
Sch.2 Pt. 1 E.a	11	Is the building, enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such?	✓	

Fuel storage and outbuildings

E.1(a)	12	Has permission to use the dwellinghouse as a dwellinghouse been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use)?		✓
E.1(b)	13	Would the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) exceed 50% of the total area of the original curtilage (excluding the original dwelling)?	N/A	N/A

			Yes	No
E.1(c)	14	Would any part of the building, enclosure, pool or container be situated on land forward of a wall forming the principal elevation of the original dwellinghouse?		✓
E.1(d)	15	If it is a building would it have more than one storey?		✓
E.1(e)	16	Would the height of the building, enclosure or container exceed: (i) Four 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 two metres of the boundary of the curtilage of the dwellinghouse? (iii) Three metres in any other case?		✓
				✓
			N/A	N/A
E.1(f)	17	Would the height of the eaves of the building exceed 2.5 metres?		✓
E.1(g)	18	Would the building, enclosure, pool or container be situated within the curtilage of a listed building ?		✓
E.1(h)	19	Would the development include the construction or provision of a veranda, balcony or raised platform?	***✓	
E.1(i)	20	Would it relate to a dwelling?		✓
E.1(j)	21	Would it relate to a microwave antenna?		✓
E.3	22	Article 2(3) land (World Heritage Sites, National Parks, AONBs & Conservation Areas): Would any part of the building, enclosure, pool or container be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse?	N/A	N/A
	23	Would it affect or be within the Root Protection Area of a TPO'd tree? <i>* Does not affect Article 3 permission but separate TPO approval may be needed</i>		✓

*Residential Curtilage

The site subject to the certificate application lies outside of the residential curtilage of the original dwellinghouse. The land was previously separated from Little Wheatlands, however, alterations have been made to the wider site between 2013 and 2019. No such permission exists for these alterations and no change of use has been applied for or approved. In any case, it is an established fact that just because the land is currently in a residential use associated with Little Wheatlands, this does not necessarily mean that it lies within the curtilage of the dwellinghouse. It is to be noted that the concept of 'curtilage' is different to 'land use', and 'residential curtilage' is not a use of land as set out in the Use Classes Order. A residential/garden use of land does not necessarily equate to it falling within the curtilage of a dwellinghouse.

The land subject to the current certificate application was originally an area serving the nearby farm buildings, outside of the residential curtilage of the dwellinghouse at Little Wheatlands. A natural and well-established boundary separated the site from the rear garden of the house. The site also previously benefitted from a separate access gate, which again, served the adjacent farm. The site is distinctly separate from the main dwelling and its rear garden area and does not form part of the residential curtilage.

This assessment is highly supported by a series of aerial photographs, as shown below.



Location of the previous established boundary separating the site from the curtilage of Little Wheatlands.

Aerial Image (2003) – Boundary in situ



Aerial Image (2013) – Boundary still in situ



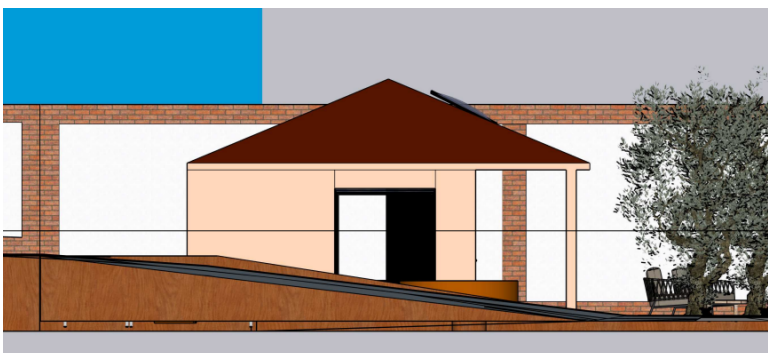
Aerial Image (2018) – Part of boundary still in situ



Aerial Image (2019) – Removal of boundary

**Construction of Veranda

Despite not being completely clear through the Proposed Elevations, the plans appear to demonstrate the intention of creating a raised platform/veranda, as displayed through the Site Section plan (attached below).



8. Conclusion

The proposed erection of a detached outbuilding constitutes development requiring planning permission. Permission is not available under Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, the proposal not being in accordance with Schedule 2 (Part 1) (Class E) of the Order.



DRAFT REFUSED
Development Management Team Leader

Date: 12 November 2024