

Received Date	28 April 2025
Expires:	23 June 2025
Application Number:	251005
Site:	219 Hyde End Road, Spencers Wood, Wokingham, RG7 1BU
Application:	Certificate of lawfulness for the proposed demolition of existing garage/outbuilding followed by erection of replacement outbuilding.

1. Relevant Planning History

Application No.	Proposal	Decision Date	Decision	Relevant Conditions
160982	Full application for the proposed erection of 1no 2xbed bungalow dwelling with associated access following demolition of existing store/shed.	08/06/2016	Refused (dismissed at appeal)	N/A
160590	Application for submission of details to comply with the following condition of planning consent 152345 (16/12/2015). 3. External Materials.	19/05/2016	Approved	N/A
152345	Householder application for the proposed erection of a single storey side and two storey rear extension plus raising the roof by 0.5m to form habitable accommodation.	16/12/2015	C/A	None
152816	Full application for the proposed erection of a four bedroom dwelling following demolition of existing shed and associated access.	09/12/2015	Refused	N/A
150720	Proposed erection of 4 bedroom dwelling with associated access and landscaping following the demolition of existing store/shed.	30/06/2015	Refused (dismissed at appeal)	N/A
38715	Access Road	23/01/1992	Refused	N/A

No information is available on the site prior to the 1992 permission.

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 wildlife or habitat designations.
- The site is situated within a Modest Development Location of Spencers Wood.

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:

Erection of replacement 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

			Yes	No
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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)?		✓
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
			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>		✓

***Is the building, enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such?**

Class E relates to the provision of a building which is reasonably used and reasonably required for purposes incidental to the enjoyment of the dwellinghouse.

The nature of the activities carried out in the proposed building must be incidental or conducive to the very condition of living in the dwellinghouse. The physical size of the building could be a relevant consideration in that it can indicate the nature and scale of the activities. Incidental connotes an element of subordination in land use terms in relation to the enjoyment of the dwellinghouse itself.

The floor plan indicates that the applicant intends to use the internal floor space for an office, gym, WC, and store. These are all uses which could be considered incidental to the enjoyment of the dwelling.

Notwithstanding the above, even if the nature of the activities carried out in a proposed building were considered to be incidental or conducive to the very conditions of living in the dwellinghouse (which is a matter not in dispute in this case), the scale of those activities is important. It is acknowledged that the footprint of the building is large at approximately 113m², however, the building would be put to multiple uses that in other circumstances might be accommodated in a number of outbuildings, rather than the single building proposed in this case. The size of the building is indicative of the number of activities it would accommodate, each of which that would be incidental to the enjoyment of the dwellinghouse.

In summary, based on the above justification, it is considered that the development would be incidental to the enjoyment of the dwellinghouse and subsequently complies on this point. This certificate is therefore recommended for approval.

It should be noted that the recommendation has been formed based on the information submitted, where it has been concluded the outbuilding would be incidental. Should the building be put to a use that is materially different to that stated in the application, it would not have the benefit of any certificate granted in this case and enforcement action would be taken.

8. Conclusion:

The proposed demolition of existing garage/outbuilding followed by erection of replacement outbuilding constitutes development requiring planning permission. Permission is available under Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, the proposal being in accordance with Schedule 2 (Part 1) (Class E) of the Order.

DRAFT APPROVED

Development Management Team Leader



Date: 11.06.25