

Received Date:	23 May 2025
Expires:	18 July 2025
Application Number:	251225
Site:	The Lodge, 178 Bearwood Road, Wokingham, RG41 4SH
Application:	Application for a certificate of lawfulness for the proposed erection of a two storey rear extension following demolition of existing extensions, removal of flue, installation of dormers and erection of a detached outbuilding.

1. Relevant Planning History

Application Number	Proposal	Decision Date	Decision	Relevant Conditions
231276	Application for a certificate of existing lawful development for the use of a residential dwelling house outlined in red on the attached plan and the use of the building outlined in blue for the storage of household, DIY and gardening equipment by the residents of the dwelling outline in red	13/10/2023	Approved	N/A
240935	Application for a certificate of existing lawful development for the incidental residential use of land associated with The Lodge, plus a septic tank.	10/06/2024	Refused	N/A
242499	Application for a certificate of existing lawful development for the incidental residential garden use of land associated with The Lodge (also ancillary development associated with construction of dwelling).	13/02/2025	Approved	N/A
250954	Application for the prior approval of the erection of 2 no. single storey rear extensions, which would extend beyond the rear wall of the original house by 7.98m, for which the maximum height would be 4.00m and the height of the eaves 3.80m.	30/06/2025	Prior Approval Not Required	N/A

2. Site Description

The application site features a single storey dwelling located in Barkham, it is set back from the road and has off-street parking, plus a rear residential garden.

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 subject to wildlife and habitat designations being located in an area that holds the potential to support bat roosts. Additionally, the site is located in a red risk highly suitable habitat for great crested newts.

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 A) grants planning permission for the "*enlargement, improvement or other alteration 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:

The proposed erection of a single storey outbuilding to provide a garage, workshop, gym and a shower/sauna.

7. Assessment against legislation (Class E):

The relevant section of the GPDO for this element (single storey outbuilding) of the proposal to be assessed against is Class E, "buildings etc incidental to the enjoyment of a dwellinghouse".

The FindLaw Legal Dictionary definition of incidental is something that is "*subordinate or secondary in importance or position*". On this matter, Collinsdictionary.com states that "*if one thing is incidental to another, it is less important than the other thing or is not a major part of it*". Dictionary.com provides a similar definition stating that if something is "*happening or likely to happen in an unplanned or subordinate conjunction with something else*".

The existing dwelling has an approximate footprint of 98 square metres, and the proposed outbuilding has an approximate footprint of 183 square metres – this represents a 187% increase. *Emin v SSE & Mid Sussex DC [1989]* has established in

relevant case law that whilst the size of an outbuilding may be an important consideration when determining if a building is to be used incidental to the use of a dwellinghouse, it is not by itself conclusive.

In considering Class E purposes the critical test to be applied is firstly (i) whether the uses of the proposed outbuilding, in the context of the whole planning unit, is intended to be and would remain incidental or subordinate to the main use of the property as a dwellinghouse, and secondly (ii) whether the proposed outbuilding is reasonably required in order to accommodate those uses. In this context, the physical size of the building is a relevant factor to be taken into account, but is not determinative.

- (i) *Whether the uses of the proposed outbuilding is intended to be and would remain incidental or subordinate to the main use of the property as a dwellinghouse*

The proposed outbuilding would accommodate a variety of uses which, in principle, could be considered as incidental to the enjoyment of a dwellinghouse. The submitted drawings demonstrate that the building would accommodate a workshop, 3 no. parking spaces, a gym, changing/shower room and a sauna all of which could normally be deemed to be incidental to the main use of the property as a dwellinghouse. However, given that the footprint of the proposed outbuilding (required to house these facilities) more than doubles that of the host dwelling, it is not accepted that the proposal can be considered subordinate. Therefore, the proposed outbuilding does not represent something that could reasonably be considered to be 'incidental' to the purpose of the main dwellinghouse.

- (ii) *Whether the proposed outbuilding is reasonably required in order to accommodate those uses*

It must also be demonstrated whether the proposed outbuilding is reasonably required in order to accommodate these uses. No justification or statement has been provided as part of this application to explain why a workshop and three car garage are required. The submitted proposed roof plan (PD02 RevA) shows 2 no. parking spaces located next to the dwelling, therefore it must be questioned as to why a garage and three further spaces are required. In this case, it has not been adequately justified that a garage for three further parking spaces is required. The lack of justification, combined with the scale of the outbuilding, leads us to finding that the outbuilding would not be deemed as incidental.

Notwithstanding the above fundamental concern, an assessment against E.1 of Schedule 2, Part 1, Class E of the GPDO is contained in the table below.

			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?	✓	

			Yes	No
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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?	NA	NA
Sch.2 Pt. 1 E.b	8	Is the storage for domestic heating purposes?	NA	NA
E.1(j)	9	Would the capacity of the container exceed 3,500 litres?	NA	NA

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?	✓	✓
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 & the Broads): 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?		✓

			Yes	No
	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>	✓	

'Yes' has been ticked to 16(i) of the table above as the flue proposed on the roof of the proposed outbuilding would exceed a height of 4 metres. The proposal therefore fails to comply with Class E of the GPDO.

8. Relevant details of the proposal:

The proposed erection of a two-storey rear extension.

It is understood that the dormer windows atop the rear extension are serving and allowing light into the ground floor as defined on the submitted proposed floor plan 'PD04' and not serving an additional storey.

9. Assessment against legislation (Class A):

			Yes	No
s.55	1	Does it constitute development?	✓	
s.191	2	Would it be contrary to an enforcement notice?		✓
s.187a Art.3 (4)	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 original building lawful?	✓	
Art.3 (6)	5	Does it involve the formation, laying out or material widening of a means of access to an existing highway which is a trunk or classified road, or creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons?		✓
Art.4	6	Is there an 'Article 4 Direction' in effect for the site?		✓
Sch.2 Pt. 1 A	7	Does it consist of enlargement, improvement or other alteration of a dwellinghouse?	✓	
A.1(a)	8	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)?		✓
A.1(b)	9	Would the total area of ground covered by buildings (other than the original dwelling) exceed 50% of the total area of the curtilage?		✓
A.1(c)	10	Would the height of the part of the dwellinghouse enlarged, improved or altered exceed the height of the highest part of the roof of the existing dwellinghouse?		✓
A.1(d)	11	Would the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse?		✓
A.1(e)	12	Would the enlarged part of the dwellinghouse extend beyond a wall which - (i) fronts the principal elevation of the original house; or (ii) fronts a highway and forms a side elevation of the original dwellinghouse?		✓
A.1(f)	13	If the enlarged part of the dwellinghouse is single storey, would it either:		✓

			Yes	No
		(i) extend beyond the rear wall of the original dwellinghouse by more than: 4 metres in the case of a detached dwellinghouse 3 metres in the case of any other dwellinghouse; or (ii) exceed 4 metres in height		
A.1(g)	14	For a dwellinghouse not in article 2 (3) land (incl conservation area) if the enlarged part of the dwellinghouse is single-storey, would it either (i) extend beyond the rear wall of the original dwellinghouse by more than: 8 metres in the case of a detached dwellinghouse 6 metres in the case of any other dwellinghouse; or (ii) exceed 4 metres in height NB: As per Para A.4 of Part 1 of for development that exceeds the limits in para A.1 (f) (question 13) but is allowed by para A.1 (g) (question 14) <u>Prior Approval via the 'Neighbours Notification Scheme' is required</u>		✓
A.1(h)	15	If the extension would be more than a single storey would it: (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or (ii) be within 7 metres of the rear boundary of the curtilage.		✓
A.1(i)	16	Would the enlarged part of the dwellinghouse would be within 2 metres of the boundary with an eaves height in excess of 3 metres?		✓
A.1(j)	17	Would the enlarged part of the dwellinghouse extend beyond a wall forming a side elevation of the original dwellinghouse and: (i) exceed 4 metres in height, (ii) have more than a single storey, or (ii) have a width greater than half the width of the original dwellinghouse		✓
A.1(k)	18	Would the development consist of or include: (i) the construction or provision of a verandah, balcony or raised platform, (ii) the installation, alteration or replacement of a microwave antenna, (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or (iv) an alteration to any part of the roof of the dwellinghouse.	✓	
A.2(a)	19	Article 2(3) land (inc. conservation areas): a. Would the development consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles?		✓
A.2(b)	20	b. Would the extension extend beyond a wall forming a side elevation of the original dwellinghouse?		✓
A.2(c)	21	c. Would the extension have more than a single storey and extend beyond the rear wall of the original dwellinghouse?		✓
	22	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 will likely be needed.</i>	✓	

'Yes' has been ticked in response to question 18 as alterations are proposed to the roof. An assessment of the roof alterations can be found in sections 10 and 11 of this report.

10. Relevant details of the proposal:

The proposed insertion of a flat roof dormer to both side elevations.

11. Assessment against legislation (Class B):

			Yes	No
s.55	1	Does it constitute development?	✓	
s.191	2	Would it be contrary to an enforcement notice?		✓
s.187a Art.3 (4)	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 original building lawful?	✓	
Art.4	5	Is there an 'Article 4 Direction' in effect for the site?		✓
Sch.2 Pt. 1 B	6	Does it consist of the enlargement of a dwellinghouse by addition or alteration to its roof?	✓	
B.1(a)	7	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)?		✓
B.1(b)	8	Would any part of the dwellinghouse, as a result of the works, exceed the height of the highest part of the existing roof?		✓
B.1(c)	9	Would any part of the dwellinghouse, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway?		✓
B.1(d)	10	Would the cubic content of the resulting roof space exceed the cubic content of the original roof space by more than: (i) 40 cubic metres in the case of a terrace house, or (ii) 50 cubic metres in any other case?		✓
B.1(e)	11	Would it consist of or include: (i) the construction or provision of a verandah, balcony or raised platform?		✓
		(ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe?		✓
B.1(f)	12	Is the dwellinghouse on Article 2(3) land? (inc. conservation areas)		✓
	13	Would it affect a TPO'd tree? <i>* Does not affect Article 3 permission but separate TPO approval will likely be needed.</i>	✓	

12. Conclusion

The proposed two storey rear extension, insertion of flat roof dormers to the side elevations, and erection of an 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. This is because the maximum height of the outbuilding would exceed 4 metres, additionally, it has not been

adequately justified that the proposed outbuilding would be incidental to the main dwellinghouse.

DRAFT APPROVED

A handwritten signature in purple ink, appearing to be 'Aje', is written below the 'DRAFT APPROVED' text.

Development Management Team Leader

Date: 15/07/25