

Received Date:	2 December 2024
Expires:	27 January 2025
Application Number:	242987
Site:	145 Victoria Road, Wargrave, Wokingham, RG10 8AG
Application:	Application for a certificate of lawfulness for the proposed conversion of the existing attached garage into habitable accommodation along with changes to fenestration and additional roof lights plus erection of pergola roof to the rear following demolition of the existing conservatory and existing outbuildings.

1. Relevant Planning History

Application No.	Proposal	Decision Date	Decision	Relevant Conditions
000860	Proposed single storey rear extension to dwelling to form conservatory.	09/06/2000	C/A	None
40921	First floor side extension	04/05/1993	C/A	N/A: (not implemented)
22628	Single storey side extension and first floor rear extension	19/12/1984	C/A	Yes: Condition 3 (see below)
08661	Single storey rear extension	03/08/1978	C/A	Yes: Condition 3 (see below)

2. Site Description

Two storey, semi-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 subject to a wildlife or habitat designations, being located in a bat roost habitat area.
- The site is situate within a Modest Development Location of Wargrave.

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

Proposed conversion of the existing attached garage into habitable accommodation.

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 (4)	3	Would it be contrary to any condition imposed by any planning permission granted or deemed to be granted? Condition 3 of consent 22628 states: <i>‘The garage hereby permitted shall be used as a domestic garage only and it shall not be used for business purposes nor for any other purpose without the prior written permission of the District Planning Authority.’</i>	✓	
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?		✓

			Yes	No
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?	N/A	N/A
A.1(f)	13	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: 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	N/A	N/A
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>	N/A	N/A
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.	N/A	N/A
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?	N/A	N/A
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	N/A	N/A
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.		✓

			Yes	No
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?	N/A	N/A
A.2(b)	20	b. Would the extension extend beyond a wall forming a side elevation of the original dwellinghouse?	N/A	N/A
A.2(c)	21	c. Would the extension have more than a single storey and extend beyond the rear wall of the original dwellinghouse?	N/A	N/A
	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>		✓

8. Conclusion

The proposed conversion of the existing attached garage into habitable accommodation constitutes development requiring planning permission. Permission is not granted under Article 3 of the Town and Country Planning (General Permitted Development) Order 2015, because condition 3 of consent 22628 restricts the conversion of the garage.

9. Relevant details of the proposal

Erection of pergola roof to the rear.

10. 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

			Yes	No
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	N/A	N/A
		(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?	N/A	N/A
		(iii) Three metres in any other case?		✓
E.1(f)	17	Would the height of the eaves of the building exceed 2.5 metres? Permitted development rights for householders: technical guidance, states that the eaves height of a flat roofed extension or outbuilding is measured from the ground level at the base of the outside wall to the point where that wall would meet the upper surface of the flat roof. In essence, this means the eaves height is taken from the top of the structure. The proposed plans clearly demonstrate that outbuilding would exceed 2.5 metres in height. As such, from the information submitted with this application for a certificate of lawfulness, the proposal fails to meet the criteria specified in E.1 (f), Part 1, Schedule 2 of the General Permitted Development Order.	✓	
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? Following the demolition of the conservatory, it appears that a raised patio is intended in its place, as per the proposed plans. This is not included in the description of development, however, the plans are assessed as part of this application and would form part of any approval. As such, the proposal as submitted would fail to meet Criteria E.1(h) & A.1(k(i)) of Part 1, Schedule 2 of the General Permitted Development Order.		✓
E.1(i)	20	Would it relate to a dwelling?		✓
E.1(j)	21	Would it relate to a microwave antenna?		✓

			Yes	No
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?	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>		✓

11. Conclusion

The proposed erection of pergola roof to the rear constitutes development requiring planning permission. Permission is not granted 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

JMM

Development Management Team Leader

Date: 23 January 2025