

Wokingham Borough Council – Planning Department
Shute End
Wokingham
Berkshire
RG40 1BN

Our ref: 4215

20 September 2024

Dear Sir or Madam

Certificate of Lawfulness: Proposed Development – proposed outbuilding at Little Wheatlands, Fleet Hill, Finchampstead, Wokingham, RG40 4QG.

We are submitting this certificate of lawfulness on behalf of Mr and Mrs Batcheler who own and live in Little Wheatlands, Fleet Hill, Finchampstead, Wokingham, RG40 4QG. They are in need of an outbuilding to be used as a home office. This would replace an existing outbuilding. This certificate of lawfulness sets out the proposed development for consideration by Wokingham Borough Council against Class E – buildings etc incidental to the enjoyment of a dwellinghouse.

Accompanying this submission are the following plans:

- Site Location Plan
- Current Block Plan
- Proposed Block Plan
- 01 – Garden Room Location Proposal
- 02 – Garden Room Exterior Design
- 03 – Garden Room Interior

Application fee of £129.00 (half the householder planning application fee)

Little Wheatlands is a private residential dwellinghouse that is located in the countryside. The property is accessed via a long driveway off Fleet Hill (B3348). The property is not a listed dwelling. The site is not



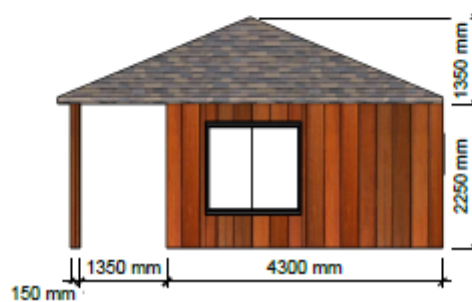
within an Area of Outstanding Natural Beauty (now known as National Landscape), the Broads, a National Park or a World Heritage Site. The site is not located within a Conservation Area.

As demonstrated by the accompanying plans, the building would be used as a home office with associated amenities such as a small kitchenette and WC. This would enable the owners of Little Wheatlands to work in a quiet location outside of the main family home. Whilst working, they would be able to use the facilities to ensure their comfort throughout their working hours. The building would measure 5.65m (w) x 7.8m(l) x 3.6m (h) [2.25m to eaves]. The roof design would be a dual pitch. The building is located at its closest point, 2.5m from the boundary of Little Wheatlands.

Front View



Left Side View



Below we consider in full Class E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).



Class E – buildings etc incidental to the enjoyment of a dwellinghouse

Permitted development

E. *The provision within the curtilage of the dwellinghouse of—*

(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or

(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

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); **Not applicable.**

(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); **The garden remaining far exceeds 50% of the total area of the curtilage of the original dwellinghouse so this test is met.**

(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; **The outbuilding is proposed to be located to the rear of Little Wheatlands House so this test is met.**

(d) the building would have more than a single storey; **The proposed outbuilding would be a single storey dual pitched roof so this test is met.**

(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, **The dual pitched roof would have a maximum height of 3.6m so this test is met.**

(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, or **The building is more than 2m from the boundary of the curtilage of the dwellinghouse meaning the proposed 3.6m dual pitched roof is acceptable so this test is met.**

(iii) 3 metres in any other case; **N/A as (e(i)) is met.**

(f) the height of the eaves of the building would exceed 2.5 metres; **The eaves reach 2.25m in height so this test is met.**

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building; **Little Wheatlands is not a listed building meaning the outbuilding is not situated within the curtilage of a listed building. This test is met.**

(h) it would include the construction or provision of a verandah, balcony or raised platform; **N/A**



(i) it relates to a dwelling or a microwave antenna; **N/A**

(j) the capacity of the container would exceed 3,500 litres; or] **N/A**

(k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses). **N/A**

E.2 In the case of any land within the curtilage of the dwellinghouse which is within— **The site is not within any of the listed designations below. This test is met.**

(a) an area of outstanding natural beauty;

(b) the Broads;

(c) a National Park; or

(d) a World Heritage Site,

development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

E.3 In the case of any land within the curtilage of the dwellinghouse which is article 2(3) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse. **The site is not located within Article 2(3) land. This test is therefore not applicable.**

Interpretation of Class E

E.4. For the purposes of Class E, “purpose incidental to the enjoyment of the dwellinghouse as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse.

To address **E.4.** we demonstrate below that the proposed outbuilding is incidental.

It is well known that there is no statutory definition of “incidental” in the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Case law provides guidance on how it should be interpreted by decision-makers and indicates that swimming pools, gyms, offices, garages can all be considered incidental to the enjoyment of a dwellinghouse.

In the Emin case¹ it was held that the size of an outbuilding is not relevant for the purposes of Class E, but the building must be ‘required for some incidental purpose’ in relation to the dwellinghouse. When dealing with cases such as this it is necessary to identify the purpose and

¹ Emin v SSE [1989] JPL 909



incidental quality in relation to the enjoyment of the dwellinghouse, and whether the building is genuinely and reasonably required to accommodate the proposed use or activity, and to achieve that purpose.

There are clearly therefore two key factors that relate to whether an outbuilding is incidental:

- Physical size – this may be of some relevance, but it should not be determinative. The relevance of size is linked to the scale of uses proposed and whether they would be subordinate to the main use of the dwellinghouse.
- Proposed uses – The question here is whether the uses proposed within the building are in themselves incidental rather than ancillary. Garages and offices are commonly considered incidental to the primary use and are regularly seen within outbuildings.

The proposed outbuilding is to be used as a home office with ancillary amenities to support the resident using the office during working hours. The proposed building is of an appropriate size for a home office and would not appear substantial within the grounds of Little Wheatlands. The size of the building is within the thresholds set out within the GPDO.

This letter demonstrates that the proposed outbuilding is a lawful development. Through making this submission we are looking to gain agreement from Wokingham Borough Council that this is the case prior to the owners of Little Wheatlands constructing the proposed outbuilding.

If there are any questions, please contact the writer of this letter.

Yours faithfully

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