

DELEGATED DECISION REPORT

HPK/2021/0042 8 KILN CLOSE
Valid 11/02/2021 DOVE HOLES

**CERTIFICATE OF
LAWFULNESS FOR A
PROPOSED CONSTRUCTION
OF SINGLE GARAGE,
HARDSURFACE, AND
VEHICULAR ACCESS FROM
ADJACENT HIGHWAY**

**(CERTIFICATE OF
LAWFULNESS - PROPOSED)**

MAIN ISSUES

- Whether the proposed development complies with the relevant parts of the Town and Country Planning (General Permitted Development Order) (England) Order 2015 (as amended) - GPDO

DESCRIPTION OF SITE

The application refers to No.8 Kiln Close, Dove Holes; a two storey detached property that stands at the corner of a small cul-de-sac which forms part of a third phase of a large housing development known as 'Hallsteads'. Whilst Google Satellite imagery clearly shows that the property has been substantially built, the property is not yet occupied.

The site is bounded to the north by the cul-de-sac, and to the west by an access road which connects the third phase with already completed phases 1 and 2 to the south. The property has a small front garden and a larger rear garden. The Decision Notice granting consent for this phase of development does not include any conditions that removes permitted development rights, and thus these rights are intact for this property.

PROPOSAL

The application seeks a Certificate of Lawful Development for three aspects of proposed development which comprises a single storey garage, a small area of hard standing, and a new dropped kerb providing access from the rear garden to the public highway to the west.

A short Statement accompanies the application which provides a clear argument as to why these three aspect of development comply with Schedule 2, Part 1, Classes E and F, and Part 2, Class B as appropriate, thereby concluding that the proposed works do not require planning permission and as such a Certificate can be issued.

OFFICER COMMENTS

This application seeks a certificate of lawful development for three proposed aspects of development that comprise a single storey detached garage, a small area of hard standing, and a dropped kerb providing an additional access to the public highway. Should each aspect of development be found to comply with the relevant parts of the GPDO, permission is not required and allows a certificate to be issued. An assessment of each aspect of development against the relevant parts of the GPDO is undertaken below.

Garage

Schedule 2, Part 1, Class E permits buildings that are incidental to the enjoyment of a dwelling subject to compliance with parameters contained under Paragraphs E.1, E.2 and E.3.

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 M, N, P or Q of Part 3 of this Schedule (changes of use);

The dwellinghouse is a new building that has not been subject of any change of use application and thus the application complies with Paragraph E.1(a)

- (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 proposed garage covers a footprint of approximately 16sqm which compares to the residential curtilage that excluding the house exceeds 50sqm, equating to much less than 50%. The application is thus compliant with Paragraph E.1(b)

- (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 proposed building located to rear of dwelling and not forward of principal elevation i.e. front elevation facing the cul de sac in which the front door to the dwelling is located. The application therefore complies with Paragraph E.1(c)

- (d) the building would have more than a single storey;

The proposed garage is single storey and is thus compliant with Paragraph E.1(d)

- (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, Not applicable
 - (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
 - (iii) 3 metres in any other case;

The proposed building stands within 2m of the rear and side boundaries of the plot and height will be 2.5m to flat roof level as shown on the submitted drawing plans. The application therefore complies with Paragraph E.1(e)

- (f) the height of the eaves of the building would exceed 2.5 metres;

The proposed roof is flat and the eaves height is just under 2.5m as shown on the annotated submitted drawing. The application complies with Paragraph E.1(f)

- (g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;

Not applicable.

- (h) it would include the construction or provision of a verandah, balcony or raised platform;

Not applicable.

- (i) it relates to a dwelling or a microwave antenna;

Not applicable.

- (j) the capacity of the container would exceed 3,500 litres

Not applicable.

E.2 In the case of any land within the curtilage of the dwellinghouse which is within—

- (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.

The application is not constrained by any such designation. Not applicable.

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.

Not applicable, the site is not on Article 2(3) land.

Hard Standing

Schedule 2 Part 1 Class F permits the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse or the replacement in whole or part of such a surface, subject to compliance with parameters set out under Paragraphs F.1 and F.2. An assessment of the proposed development against such parameters is carried out below.

F.1 Development is not permitted by Class F if permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use).

The dwellinghouse is a new building that has not been subject of any change of use application and thus the application complies with Paragraph F.1

F.2 Development is permitted by Class F subject to the condition that where—

(a) the hard surface would be situated on land between a wall forming the principal elevation of the dwellinghouse and a highway, Not applicable.

and

(b) the area of ground covered by the hard surface, or the area of hard surface replaced, would exceed 5 square metres, either the hard surface is made of porous materials, or provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

The are of hardstanding amounts to less than 5sq m, therefore the development meets F.2 (b).

Dropped Kerb

Schedule 2, Part 2, Class B permits the formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road, where that access is required in connection with development permitted by any Class in this Schedule (other than by Class A of this Part).

As set out within the accompanying Statement, the internal estate road to which the new access relates is set to be adopted by the Highway Authority

but will not be classified and as such the proposed access is permitted. As highlighted by the applicant, an application will need to be made to Derbyshire County Council as local highway authority for consent to install a dropped kerb and pavement crossing, to access the garage from the highway. However that is a separate technical matter that has no bearing on this application to establish the lawfulness of the proposal.

CONCLUSION / PLANNING BALANCE

The dwellinghouse to which this certificate relates is not occupied but is nevertheless substantially constructed. Permitted Development rights are therefore intact.

Following a detailed analysis of each aspect of development it is concluded that all aspects comply with the relevant parts of the General Permitted Development Order and as such it is recommended that a certificate can be granted.

OFFICER RECOMMENDATION: Grant Certificate

Case Officer: James Stannard

Recommendation Date: 8th April 2021

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council