

DELEGATED DECISION REPORT

HPK/2022/0524
Valid 01/02/2023

6 BOTTWOOD COTTAGE
NEW MILLS ROAD
CHISWORTH

LAWFUL DEVELOPMENT
CERTIFICATE FOR A
PROPOSED ERECTION OF A
SINGLE STOREY
OUTBUILDING TO REAR
GARDEN

(CERTIFICATE OF
LAWFULNESS - PROPOSED)

MAIN ISSUES

- Whether the proposal complies with all relevant parameters set out under Schedule 2, Part 1, Class E and Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 'GPDO')

DESCRIPTION OF SITE

The application refers to a small parcel of land within close proximity of No.6 New Mills Road, Chisworth, to the south of an existing ancillary garage. It is accepted that the area subject of the application is within an area of domestic garden that is intimately associated with the dwelling which has a strong spatial and visual relationship and thus lies within the domestic curtilage.

PROPOSAL

The application seeks a Certificate of Lawful Development for development described as "Proposed erection of a single storey outbuilding to rear garden". The applicant contends that the proposed structure does not require planning permission by virtue of compliance with Schedule 2, Part 1, Class E of the GPDO.

OFFICER COMMENTS

The application relates to a residential dwelling that retains its permitted development rights. Schedule 2, Part 1, Class E of the GPDO permits buildings incidental to the enjoyment of a dwellings, as follows:

- 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 is not permitted if it conflicts with any criterion set out under Paragraphs E.1, E.2 and E.3. An assessment of the proposed development against this criteria is undertaken below.

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 use of the buildings as a dwellinghouse has not be the subject of any change of use and thus the application is compliant 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 area of land that is considered to fall within the domestic curtilage exceeds some 700sqm (approx. 35m x 35m) with the proposed outbuilding having an approximate floor area of 20sqm. As such, the proposed building would quite clearly not exceed 50% of the total area of curtilage and is 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 outbuilding would be to the rear of the dwellinghouse in accordance with Paragraph E.1(c).

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

The proposed building has a single storey in accordance 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,**
- (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 is shown to be located 2 metres from the site boundary with a flat roof reaching a height of 2.5 meters. The application is therefore compliant with Paragraph E.1(e).

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

The proposed building is shown to have a flat roof reaching a height of 2.5 meters. The application is therefore compliant with Paragraph E.1(f).

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

The building is not listed and thus the application is in accordance with Paragraph E.1(g).

(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; or

N/A

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

N/A

The above confirms that the proposed outbuilding complies with all relevant parameters set out under Paragraph E.1. Paragraph E.2 is not relevant in this case as the site is not located within any of the land based designations set out within that paragraph.

Paragraph E.3 states that any proposal on Article 2(3) land, which includes conservation areas, is not permitted if any part of the building is located on land between the side elevation of a dwellinghouse and the boundary of the curtilage. The site is located on Article 2(3) land but is compliant with Paragraph E.3 as it does not lie between the side elevation and the curtilage boundary.

CONCLUSION / PLANNING BALANCE

Based on the above analysis, it has been found that the proposed development as described complies with all relevant parameters under Schedule 2, Part 1, Class E of the GPDO, does not require planning permission, and thus amounts to lawful development.

It is noted that a small amount of 'cut and fill' landscaping is required in order to accommodate the building. The proposals include a retaining wall. This wall supports an open canopy roof structure and therefore forms part of the building. In view of this, and the fact that the height of the resulting structure would not exceed 2.5m when measured against the highest part of the adjacent ground means that the scheme complies with class E of the GPDO.

As such, the proposal is found to comply with all relevant parts of the GPDO and it is therefore recommended that a Certificate be granted.

OFFICER RECOMMENDATION : Grant Certificate

Case Officer: James Stannard

Recommendation Date: 31st March 2023

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council