

DELEGATED DECISION REPORT

HPK/2023/0302
VALID 02/08/2023

8, OAK CLOSE, CHAPEL-
EN-LE-FRITH,
DERBYSHIRE, SK23 0NF

APPLICATION FOR LAWFUL
DEVELOPMENT CERTIFICATE
PROPOSED KITCHEN
EXTENSION AND GARAGE
CONVERSION TO A
BEDROOM (CERTIFICATE OF
LAWFULNESS – PROPOSED)

MAIN ISSUES

Whether the proposed development complies with the relevant parameters under Schedule 2, Part 1, Classes A and E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

DESCRIPTION OF SITE

The application dwelling is a detached bungalow which lies within the settlement boundary for Chapel-en-le-Frith as defined by the Local Plan policies map. The dwelling has been extended previously with a conservatory to the rear. A detached garage is located to the side and rear.

PROPOSAL

The application seeks a Lawful Development Certificate for a proposed rear extension and the conversion of the detached garage to habitable accommodation. The extension would attach to the garage. It is necessary to assess whether the proposed development complies with all parameters set out under Schedule 2, Part 1 of the General Permitted Development Order (GPDO).

OFFICER COMMENTS

Whether the proposed development complies with the relevant parameters under Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

Schedule 2, Part 1 of the GPDO refers to development that lies within the domestic curtilage of a residential dwellinghouse. Specifically, Class A permits the enlargement, improvement or other alteration of a dwellinghouse, subject to compliance with all criteria set out under Paragraph A.1 and conditions set out under Paragraph A.3.

An assessment of the proposed development against this criteria is carried out below:

A. The enlargement, improvement or other alteration of a dwellinghouse

A.1 Development is not permitted by Class A if –

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use);

The dwelling has not been subject to a change of use under the GDPO. The development complies.

(b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (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 development would not result in the loss of more than 50% of the curtilage. The development complies.

(c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;

The proposed extension and alterations do not exceed the height of the highest part of the dwelling. The development complies.

(d) 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;

The extension and alterations do not exceed the highest eaves height of the existing dwelling and garage. The development complies

(e) the enlarged part of the dwellinghouse would extend beyond a wall which—

- (i) forms the principal elevation of the original dwellinghouse; or**
- (ii) fronts a highway and forms a side elevation of the original dwellinghouse;**

The proposed works are located to the rear and would not project beyond the principal elevation of the original dwellinghouse.

(f) subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—

- (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or**
- (ii) exceed 4 metres in height;**

The proposed works are for a single storey rear extension to a detached dwellinghouse. The extension itself would project to the rear by 3.5m. However, this would be connected to the existing garage to be converted which is set further back.

As such the enlarged part of the dwellinghouse would extend beyond the rear wall of the original dwellinghouse by more than 4m. The development does not comply.

(g) for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—

- (i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or**
- (ii) exceed 4 metres in height;**

Not applicable

(h) the enlarged part of the dwellinghouse would have more than a single storey and—

- (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or**
- (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of the dwellinghouse;**

Not applicable

(i) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;

The extension would be located within 2 metres of the boundary of the curtilage of the dwellinghouse and the eaves height would not exceed 3m. The development complies.

(j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—

- (i) exceed 4 metres in height,**
- (ii) have more than a single storey, or**
- (iii) have a width greater than half the width of the original dwellinghouse;**

The rear extension itself does not project beyond the side wall of the original dwelling. However, the extension would connect with the currently detached garage which is to be converted. Cumulatively, therefore the enlarged part of the dwellinghouse would extend beyond a side elevation of the original dwellinghouse, and would have a width which is greater than half the width of the original dwellinghouse. The development does not comply.

(ja) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e)-(j);

The garage appears to be original, therefore the development would comply.

(k) it would 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**

The proposed extension does not include any of the above aspects of development. The development complies.

(l) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)

Not applicable.

Conditions

As the proposal does not comply with the limitations of Class A.1, it is not necessary to consider whether the development meets the conditions set out under Paragraph A.3.

Whether the proposed development complies with the relevant parameters under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

Schedule 2, Part 1 of the GPDO refers to development that lies within the domestic curtilage of a residential dwellinghouse. Specifically, Class E relates to incidental buildings within the curtilage of the dwellinghouse, and is subject to compliance with all criteria set out under Paragraph E.1 and E.2.

An assessment of the proposed development against this criteria is carried out below:

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

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.**

The application relates to works to an existing outbuilding. Class E relates to the maintenance, improvement or other alteration of such a building. The application seeks to convert the existing outbuilding which is an improvement or alteration.

The existing use of the outbuilding is as a garage. This is clearly incidental to the enjoyment of the dwellinghouse. It is proposed to alter the garage so that it becomes habitable accommodation. Habitable accommodation is an ancillary use to the dwelling and is therefore above and beyond what could be considered to be incidental. Therefore the works would be beyond what could be considered to be permitted development under Class E of the GPDO.

Therefore, the development would not comply.

As the works would not be permitted development in the first instance under this Class, it is not necessary to assess the development against the other criteria.

CONCLUSIONS

It is considered that the proposals would fail to comply with the parameters and limitations set out in A.1 and would be beyond the scope of permitted development under Class E. As such the development would not be lawful. Therefore, it is recommended that the Certificate be refused.

OFFICER RECOMMENDATION: Refuse Certificate

Case Officer: Declan Cleary
Recommendation Date: 25/09/23

X 

Signed by: Ben Haywood

On behalf of High Peak Borough Council