

DEMONSTRATION OF REQUIREMENT AND REASONABLENESS STATEMENT

71 Clewer Hill Road, Windsor, SL4 4DE

Date: 7 April 2021

Proposal: Demolition of existing garden office and construction of replacement ancillary outbuilding

The proposed outbuilding is required to accommodate uses for a growing family with limited opportunity to locate those functions elsewhere. The uses and their requirements are outlined below:

- 1. Gym, cycle trainer & running machine:** Mr Dale is a keen cyclist, having cycled from Orkney to Land's End to raising £3,000 for Thames Hospice. Further charity and general riding planned, including training for a triathlon. Cycling through winter months is especially dangerous (broken hip in 2019) hence requirement for indoor training facilities. Shower & WC required to avoid having to go back to the house in sweaty training clothes.
- 2. Bike store & workshop:** The family have 7 bicycles; Mr Dale has 3, for endurance road cycling, trail riding and mountain biking and a further 4 bicycles for the remaining family. There is not only a need for space to store these bicycles (as the shed is not large enough and is unusable as it is full of bicycles) but also to carry out basic maintenance and servicing of them.
- 3. Drum Kit:** The 12 year old son is practicing for his grade 7 drumming exam (and then grade 8) for which an acoustic drum kit is required. Ultimately the space will also facility a space for him to practice with other musicians with other instruments, all of which will form an integral part of his musical studies at GCSE (and potentially beyond).
- 4. Studio, painting, craft & cleaning area:** Mrs Dale is a keen crafter, both journaling and upcycling furniture as a hobby. The 13 year old daughter is a keen artist and crafter and will be studying GCSE (and almost certainly A-Level) art (and possibly Design and Technology). For these proposed uses the space is required and also an area to wash & dry brushes and equipment.
- 5. Home office, study area:** Especially with working from home being a necessity and almost certainly being a preferred way of working at some points in the future (for all members of the family) additional space beyond what is available in the house, is required.
- 6. General ancillary uses & versatility:** The above outline the current basic requirements that the family has for the additional space that the proposed outbuilding would provide. However, as important is that the space is versatile and that the space will change as the family's needs change; further uses will also be for table tennis, table football, cinema room, summer house, where the flexibility of the space means that the space can be re-arranged to accommodate. As the children grow up, it becomes more likely that they and their friends will want to have an independent space away from their parents, which this space would also accommodate.

SUMMARY OF MAIN ISSUES

This application is for a Certificate of Lawfulness for a proposed development. This decision is based only on legal issues involved and is not a discretionary matter. As such Local Plan Policies are not relevant for this application with the determination made in relation to the relevant provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 which can be viewed below.

Does the site benefit from permitted development rights:

Yes

Development is not permitted by Class E if –

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

Permission to use the dwelling house as a dwelling house has not been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use).

The proposal complies.

(b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwelling house) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwelling house);

The total area of ground covered by buildings within the curtilage of the dwelling house will not exceed 50%.

The proposal complies.

(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 dwelling house;

No part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the original dwelling house.

The proposal complies.

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

The building will not have more than one storey.

The proposal complies.

(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 building is within 2 metres of the boundary of the curtilage of the dwelling house, and the height of the building would not exceed 2.5 metres.

The proposal complies.

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

The height of the eaves of the building would not exceed 2.5 metres (taken from the highest adjacent ground level).

The proposal complies.

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;	The building, enclosure or container would not be situated within the curtilage of a listed building. The proposal complies.
(h) it would include the construction or provision of a veranda, balcony or raised platform;	The proposal does not consist of or include the construction or provision of a veranda, balcony or raised platform. The proposal complies.
(i) it relates to a dwelling or a microwave antenna; or -	The proposed outbuilding does not relate to a separate dwelling or a microwave antenna. The proposal complies.
(i) the capacity of the container would exceed 3,500 litres.	N/A
Condition E.2	
In the case of any land within the curtilage of the dwelling house 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 dwelling house would exceed 10 square metres.	The proposal is not within the curtilage of any land which is within (a), (b), (c) or (d). The proposal complies.
Condition E.3	
In the case of any land within the curtilage of the dwelling house 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 dwelling house and the boundary of the curtilage of the dwelling house.	The land is not article 2(3) land. The proposal complies.
Interpretation of Class E	
Condition E.4	
RBWM notes that Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 relates to,	As demonstrated above, the proposed outbuilding has been designed to include: i. Cycle storage & maintenance;

‘The provision within the curtilage of the dwelling house of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling house as such, or the maintenance, improvement or other alteration of such a building or enclosure’.

They note that for the purposes of Class E,

“purpose incidental to the enjoyment of the dwelling house 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 dwelling house.

They note that consideration of what is

‘incidental to the enjoyment of the dwelling house’ raises two questions: is the purpose of the proposed outbuilding incidental to the enjoyment of the dwelling house as such and, if so, is the proposed outbuilding reasonably required for that purpose.

They also note that previous Court decisions have held that the term,

‘incidental to the enjoyment of the dwelling house’ should not rest solely upon the unrestrained whim of the householder and that there should be some connotation of reasonableness in the circumstances of each case.

- ii. Gym, comprising: treadmill, cycle trainer;
- iii. Shower & WC for gym;
- iv. Acoustic drum kit & practice area;
- v. Computer, desk, printer & file storage for home office and/or home schooling;
- vi. Craft area including area to clean equipment;

Furthermore, the proposed outbuilding has been designed to accommodate the needs of the family well beyond it’s currently proposed use.

We believe that it is reasonable to consider that the construction of the outbuilding for the above uses is incidental to the enjoyment of a dwelling house.

Conclusion

1. Where permitted development rights exist, planning permission is deemed already to have been granted as long as the proposals comply with the legislation and it its not necessary to seek a Lawful Development Certificate from the Local Authority.
2. The drawings indicating the proposed development and text above demonstrate, clearly and without question that the proposed ancillary outbuilding conforms to the criteria set out in the government’s legislation. The Local Authority should have no reason to reasonably withhold a lawful development certificate accordingly.