

JPPC ref: MC/8463

Planning Registration
West Oxfordshire District Council

10th May 2022

Dear Sirs,

Application for a Certificate of Lawfulness in respect of a proposed development, namely the erection of garden rooms incidental to the enjoyment of a dwellinghouse at Chapel House Farm, Chipping Norton, OX7 5SZ

I enclose an application for a Certificate of Lawfulness for a Proposed Development, in this instance the erection of outbuildings within the curtilage of Chapel House Farm under the rights afforded by the Town and Country Planning (General Permitted Development) Order 2015 as amended (GPDO).

Background

This application is being made to establish whether the carrying out of the proposed works would be permitted development, to allow the applicants certainty before commencing works.

Chapel House Farm is not a listed building and is not located in any AONB, green belt, conservation area, world heritage site or national park. There are a number of planning applications that relate to the site, however none of these remove permitted development rights for the dwelling which was in use as such prior to the advent of the modern system of Town and Country Planning.

Proposal

Four new outbuildings are proposed to be erected in the rear garden of Chapel House Farm. The outbuildings would measure 9 metres in width by 4 metres by depth, with a maximum height of 3.8m and would be sited to the northwest of the dwelling. The buildings would be of a timber frame construction, finished timber cladding and a pitched clay tiled roof.

The buildings are proposed to be used as a garden room, a hobby room, a home gym and a home office. Our client has recently purchased the site, which has a lack of ancillary buildings serving the dwelling.

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Discussion

The property is a single dwellinghouse, to which certain permitted development rights pertain under the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Article 3 of this Order grants a deemed planning permission for all the work listed within Schedule 2. The retained permitted development rights include those under Part 1 Class E. Reference is made to the Government's Technical Guidance entitled "Permitted Development Rights for Householders", where relevant.

Class E allows development consisting of—

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 proposed development is the provision of four buildings to be used as a garden room, a home office, a hobby room and a home gym. These buildings are required for these incidental purposes as there has been a change in circumstance in recent years, that have altered how people live and work. Furthermore, the dwelling lacks any garaging or outbuildings which might normally serve as a home gym or home office. The buildings are located within the rear garden of the dwelling, which is within the curtilage of the dwellinghouse.

The associated Technical Guidance advises that "*the rules also allow, subject to the conditions and limitations below, a large range of other buildings on land surrounding a house. Examples could include common buildings such as garden sheds, other storage buildings, garages, and garden decking as long as they can be properly be described as having a purpose incidental to the enjoyment of the house.*"

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

The use as a dwellinghouse was not granted by any of the listed Classes of the GDPO.

- (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 curtilage (2490 sq metres), excluding the original dwellinghouse (250 sq metres), extends to 2240 square metres. There are no existing outbuildings within the curtilage. The proposed outbuildings would measure 144 square metres. Thus the total area of ground covered by buildings would be just less than 6.5%. There are no other enclosures or containers.

- (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 buildings would be to the rear of the dwellinghouse.

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

The buildings will be single storey.

- (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 buildings would not be within 2 metres of the boundary of the curtilage and would be below 4 metres in height with a dual-pitched roof.

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

The eaves of the building will measure 2.5 metres in height.

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

Chapel House Farm is not a listed building and the site is not within the curtilage of any other listed building.

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

There is no verandah, balcony or raised platform proposed.

- (i) it relates to a dwelling or a microwave antenna; or (j) the capacity of the container would exceed 3,500 litres.*

The proposal does not relate to any of these types of development.

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 site is not within any of these listed areas.

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 within Article 2(3) land.

Planning application 19/02470/FUL granted planning consent for the conversion of existing barns to form four residential properties, the conversion of a barn to form ancillary accommodation and the erection of a car port and ancillary works. Condition 6 of this consent removed permitted development rights for Classes A, B, C, D, E, G and H. The red line plan for this planning consent went around the entirety of the site, including the farmhouse and its garden.

This planning consent has not been implemented and none of the conditions have been discharged. Therefore, this condition does not apply at this time and does not restrict the Class E permitted development rights of the dwelling.

I believe that this application has discharged the onus upon the applicant to prove that the works proposed are permitted development and that the Lawful Development Certificate should therefore be granted.

I trust you have sufficient information to allow you to consider this matter. If you require any additional clarification, please do not hesitate to contact me.

Yours faithfully



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