

# Lakelands, Dryfield Lane, Rivington, BL6 7RT

Certificate of Lawfulness for proposed building operations under Section 192 (1) of the 1990 Town and Country Planning Act, as substituted by the Planning and Compensation Act 1991 for the erection of an outbuilding in the curtilage of the existing dwelling.

**SUPPORTING STATEMENT**  
APRIL 2023



# REPORT CONTROL

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## **/1 INTRODUCTION**

1.1. PWA Planning is retained by Mr. Paul Young to progress an application for a Certificate of Lawfulness for proposed building operations to allow the erection of a proposed outbuilding/garage in association with the residential property Lakelands, Dryfield Lane, Rivington, BL6 7RT. The application seeks confirmation that the development shown in the plans contained in Appendix A are permissible in line with the permitted development rights afforded by the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

1.2. The Town and Country Planning Act (TCPA) 1990 as amended by The Planning and Compensation Act 1991 under Section 192(1) states a certificate of lawfulness of proposed use or development is relevant if a person wishes to ascertain whether any proposed use of buildings or other land is lawful and whether any operations proposed to be carried out on land are lawful. Section 192(2) states that if the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect. The relevant section of TCPA 1990 in relation to the general condition limiting duration of a planning permission is Section 91. In this circumstance the relevant section is 91(1):

*Subject to the provisions of this section, every planning permission granted or deemed to be granted shall be granted or, as the case may be, be deemed to be granted, subject to the condition that the development to which it relates must be begun not later than the expiration of—*

*(a) the applicable period, beginning with the date on which the permission is granted or, as the case may be, deemed to be granted; or*

*(b) such other period (whether longer or shorter) beginning with that date as the authority concerned with the terms of planning permission may direct.*

1.3. In accordance with the legislation, the purpose of this statement is to expand upon the information provided, namely relevant excerpts of the GPDO which demonstrates that the



proposed development is compliant with the provisions of Class E of the GPDO and therefore the development as such is, de facto, lawful.

1.4. This statement provides an overview of the site and planning history alongside detail on the proposed development and how the scheme is compliant with the provisions of Class E of the GPDO. It should be read in conjunction with all the documents submitted as part of the application. These comprise the following:

- Completed Application Form;
- Appendix A – Proposed Plans;
  - Site Location Plan
  - Existing Site Plan
  - Proposed Block Plan
  - Proposed Floor Plans and Elevations



## /2 SITE DESCRIPTION

- 2.1. The site comprises of an existing residential property, Lakelands, which is situated on Dryfield Lane in Rivington, which is a large village located within the borough of Chorley. Lakelands is an existing detached dwelling with a large residential garden area.
- 2.2. The site is accessed off Dryfield Lane to the east of the site by an existing driveway. The site within its context can be seen in the supporting Location Plan and also shown in the aerial image below in Figure 1.



*Figure 1 – Aerial image of the site delineated with red outline (Google Maps)*

- 2.3. The site is located within the Green Belt. There are no ecological constraints associated with the site itself. The site is located within Flood Risk Zone 1 as identified on the Environment Agency's flood map for planning and therefore has a low probability of flooding. With regards to heritage constraints, there are no heritage assets on the site or within close proximity to the site.



### **/3 PLANNING HISTORY**

3.1. A planning search has been undertaken of Chorley Borough Council's online application search facility and the following previous applications were identified on the application site and are considered relevant to this application for a certificate of lawfulness, namely:

- 74/00868/REM – 2 car garage with living accommodation over – Approved reserved matters 5<sup>th</sup> February 1975
- 07/00484/FUL – Demolish existing rear outhouses and erect a three storey rear extension to include a basement and a single storey front extension – Approved 9<sup>th</sup> July 2007
- 21/00933/FULHH – Erection of outbuilding to accommodate a garage, storage space and home office – Refused 28<sup>th</sup> September 2021



## **/4 PROPOSED DEVELOPMENT**

- 4.1. The development consists of the erection of an outbuilding to be used in association with the main dwelling Lakelands. The building will be single storey and will be constructed of ashlar stone, with a blue slate roof. The building will have three grey horizontal folding overhead doors which can be opened easily and allow cars to be parked. A side door is also proposed allowing access to the storage area to the rear of the building.
- 4.2. The building will also allow for some additional storage space and a workshop for use by the occupiers of the main property. As such, it will simply be used in association with the main dwelling. The curtilage of the property is extensive with a large garden situated to the rear of the dwelling. There are no other existing outbuildings within the curtilage of the property.
- 4.3. Works in association with the erection of the outbuilding are being progressed on site currently. The building work has not yet been completed; however, it is considered that the works are permitted in line with the GPDO and therefore there is no need for the submission of a planning application.





## **/5 RELEVANT LEGISLATION**

5.1. Section 192 of the TCPA 1990 states that: -

*(1) If any person wishes to ascertain whether—*

*(a) any proposed use of buildings or other land; or*

*(b) any operations proposed to be carried out in, on, over or under land, would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.*

*(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.*

*(3) A certificate under this section shall—*

*(a) specify the land to which it relates;*

*(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);*

*(c) give the reasons for determining the use or operations to be lawful; and*

*(d) specify the date of the application for the certificate.*

*(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the*



*use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.*

- 5.2. In accordance with the legislation, the application submissions provide the information required by Part 3 (a), (b) and (c), and the purpose of this statement is to expand upon the information provided and to explain the reasoning for determining that the erection of the proposed outbuilding is lawful in accordance with the TCPA. Specifically, this application details that the proposed development would be compliant with the provisions of Class E of the GPDO and therefore, the erection of an outbuilding as proposed at the site would be lawful.

### ***General Permitted Development Order (GPDO)***

- 5.3. Class E of the GPDO states:

- 5.4. *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.*

- 5.5. Development is considered to not be permitted if:

*(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class [F1G,] M, [F2MA,] N, P [F3, PA] or Q of Part 3 of this Schedule (changes of use);*

*(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);*



- (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;*
- (d) the building would have more than a 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;*
- (f) the height of the eaves of the building would exceed 2.5 metres;*
- (g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;*
- (h) it would include the construction or provision of a verandah, balcony or raised platform;*
- (i) it relates to a dwelling or a microwave antenna;*
- (j) the capacity of the container would exceed 3,500 litres*
- (k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).*

5.6. It is also not considered to be permitted 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,*

5.7. *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.*

5.8. *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.*

- 5.9. The GPDO states that *for the purposes of Class E, "purpose incidental to the enjoyment of the dwellinghouse 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 dwellinghouse.*
- 5.10. The site does not fall within the definition of Article 2(3) land and therefore, the limitations set out in Class E relating to Article 2(3) land are not considered to be relevant to the proposal and have not been discussed further in this statement.
- 5.11. The property has always been utilised as a dwelling and has not been converted through any of the prior approval routes outlined in point a, nor has it been constructed under Part 20 of the GPDO and complies with point k. The property is set within an extensive residential curtilage and therefore, the erection of the outbuilding would not result in 50% or more of the land being covered with buildings as per point b. In regards to point c, the front elevation of the proposed outbuilding would be set back from the front part of the dwelling as per its existing position as shown on the site plan and elevation drawing supporting the application. The building will be single storey and therefore complies with point d. In respect of point e, the building would have a dual pitched roof which would have a total height of 3.94 metres and therefore fall under the permitted 4m maximum. The building would be over 2m from the curtilage boundary as identified on the plan and therefore, the height can be above 2.5m. The eaves height of the building will be 2.25m which is under the maximum 2.5m outlined in point f. The dwelling is not listed and the outbuilding does not include a verandah, balcony or raised platform and therefore the scheme complies with point g and h. It does not relate to a dwelling or microwave antenna, nor does the internal volume exceed 3,500 litres and therefore complies with point i and j.
- 5.12. The building will be used as a garage which is considered to be a purpose incidental to the enjoyment of the main dwelling and therefore should be considered acceptable in line with the GPDO. As set out above, the scheme does not fall within Article 2(3) land and complies with the relevant limitations as set out in the GPDO, as such the scheme is considered to comply with the relevant legislation and is considered to be lawful development.



## **/6 CONCLUSIONS**

- 6.1. This statement clearly sets out how the scheme forms permitted development under the provisions of Class E of the General Permitted Development Order. The scheme complies with all the limitations and conditions as set out under Class E and therefore it is considered to comprise permitted development.
- 6.2. In this case, the information including the supporting plans provided in this submission gives clear evidence that the scheme would comply with the provisions of Class E of the GPDO. It is clear that the applicant is entitled to a certificate to confirm that the erection of the proposed outbuilding is lawful.
- 6.3. If you require any further information or clarifications with regards to this application, please do not hesitate to contact the agent.



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