



## **FOREST COTTAGE, ASHTON ROAD, NORLEY, WA6 6NY**

### **Application for Lawful Development for addition of Garage & Outbuilding**

As expanded upon below it is considered that the proposed curtilage buildings are all permissible under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Hereafter this is referred to as the GDPO and the rights afforded by the Order are referred to as permitted development (pd).

It must be acknowledged that an application for a certificate of lawfulness is very different from an application for planning permission. In the case of the latter regard has to be given to the provisions of the development plan, to the merits of development and to any other material considerations. However, determination of an application for a CLOPUD should only be concerned with whether or not the proposed development is lawful.

Class E of Part 1, Schedule 2 of the GDPO allows the erection within the curtilage of a dwellinghouse a building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling.

The proposals comprise a single storey garage for the parking of cars and domestic storage, a single storey curtilage building for a home office and gym, both of which comprise purposes incidental to the enjoyment of the dwellinghouse. As highlighted below the curtilage buildings also comply with the limitations and conditions of Class E as set out in E.1 to E.3.

E.1 states that 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 G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);*

This is not the case.



- 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);*

As evident from submitted plans the curtilage buildings and swimming pool can be erected without the total area of ground covered by buildings exceeding 50% of the total curtilage.

- 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 and swimming pool are all sited behind the principle elevation of the dwellinghouse.

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

Both curtilage buildings are 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;*

Neither building is within 2 metres of the curtilage boundary and they both have a dual pitch roof which does not exceed 4 metres in height.

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

The eaves of the buildings do not exceed 2.5 metres.

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

They are not.

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

They do not.

- i) *it relates to a dwelling or a microwave antenna;*

They do not.



j) *the capacity of the container would exceed 3,500 litres*  
Not applicable.

k) *the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).*  
It is not.

E.2 is not applicable as it relates to dwellings within an AONB, the Broads, a National Park or a World Heritage Site.

E.3 is not applicable as it relates to dwellings within article 2(3) land.

When considering the proposed scheme, we would like to draw your attention to the following recently approved LDC applications for very similar Garage and Curtilage building additions to an existing dwelling:

#### Size of building compared to the dwelling.

The proposed curtilage building now has a footprint of 80 sqm which equates to 52% of the footprint of the dwelling as it would be following its extension under the earlier LDC approval (ref. 23/01520/LDC). This means it is smaller than curtilage buildings which have recently been approved by the Council under Class E, both in real terms and proportionately when compared to the dwelling. Below are a few examples:

- **23/01545/LDC.** The Council approved a 136 sqm outbuilding under Class E at 30 The Loont, Winsford, which equates to 104% of the footprint of the associated dwelling (131 sqm). The curtilage building included, amongst other things, a shower room (6 sqm), a gym (14 sqm) and games room (43 sqm).
- **23/01083/LDC.** The Council approved a 128 sqm outbuilding under Class E at Orchard House, Wrexham Road, Pulford, which equates to 78% of the footprint of the associated dwelling (174 sqm). The curtilage building included a shower room (5.6 sqm), a gym (31 sqm) and swimming pool (63 sqm).
- **23/00121/LDC.** The Council approved a 106 sqm outbuilding under Class E at Poachers Pocket Cottage which equates to 73% of the footprint of the associated dwelling (146 sqm). The curtilage building included a home office (14.4 sqm), gym (43.6 sqm), shower room (4 sqm), domestic storage room (4 sqm) and a cinema room (18 sqm).

Not only is the proposed curtilage building smaller than what the Council has considered to be incidental in other LDC approvals but we have included an appeal decision from September this year (ref. APP/P1805/X/23/3314062) as Appendix 1 where the Inspector points out in paragraph 10 that:



*“..none of the limitations or conditions within Class E of the GPDO require the footprint of an outbuilding to be smaller than that of the host dwelling. In Emin v SSE and Mid Sussex District Council [1989] 58 P & CR 416 it was established that whilst the size of the building may be an important consideration when determining if a building is to be used incidental to the enjoyment of a dwellinghouse, it is not by itself conclusive.”*

The appeal decision confirms that what is relevant is that the building is reasonably required for the intended uses and in paragraph 14 the Inspector states that:

*“the footprint of the outbuilding is marginally larger than that of the existing bungalow, however the intended uses are incidental to the enjoyment of the dwellinghouse and the scale of the outbuilding is no more than it needs to be.”*

The Inspector went on to approve a 190 sqm curtilage building under Class E despite the dwelling itself only being 172 sqm. Consequently, not only is the proposed curtilage building smaller than what the Council themselves have elsewhere considered incidental, both in real terms and proportionately when compared to the dwelling, but this isn't a critical factor when considering Class E. What is relevant is whether the proposed outbuilding is reasonably required to accommodate the proposed uses or activities and this is addressed below.

#### Identified uses / purposes

As highlighted below the floorspace allotted for each of the proposed uses is comparable or smaller than what the Council has elsewhere clearly found to be reasonable for the intended purpose.

- The 6 sqm of floorspace for the proposed home **office** is less than half what was approved in 23/00121/LDC which had a 14.4 sqm home office.
- The 19 sqm of floorspace for the home **gym** is less than what was approved in aforementioned LDC applications 23/00121/LDC and 23/01083/LDC which had home gyms with floorspaces of 44sqm and 31 sqm respectively and is only marginally larger than the 14 sqm approved in 23/01545/LDC.
- The 4 sqm of floorspace for the **shower/toilet** is comparable with what was approved in the aforementioned LDC applications which had shower/toilets with floorspaces of 4 sqm (23/00121/LDC), 5.6 sqm (23/01083/LDC) and 6 sqm (23/01545/LDC).
- The 28 sqm **Games Room**, which is primarily for a table tennis table is below what is recommended by table tennis England and is also substantially smaller than the games room approved by the Council in 23/01545/LDC (43 sqm)  
<https://www.tabletennisengland.co.uk/content/uploads/2022/05/05-Playing-Grades-and-SpaceRequirements.pdf>. Page 3 of 3
- The 4 sqm **domestic storage** room is the same size as the store cupboard approved in 23/00121/LDC
- A 3 sqm **entrance hall** is not unreasonable and is also comparable with the above LDC approvals.

Each of the individual uses for which the curtilage building is to be used have therefore not only been accepted by the Council as being capable of being incidental to a dwellinghouse but the size of area allotted to each use is also comparable or less than what the Council has elsewhere accepted as being reasonable for the same intended use. The total size of the curtilage building is also smaller,



both in real terms and proportionately, to other curtilage buildings very recently accepted by the Council as falling under Class E.

The proposed curtilage building and Garage therefore meet the necessary test of Class E in terms of being incidental to the enjoyment of the dwelling house and comply with all of the relevant limitations and conditions set out in Part 1, Class E of the GDPO and are acceptable without the need for express planning permission.