

JPPC ref: AC/8992

Royal Borough of Windsor and Maidenhead
Council
Planning

[Submitted electronically via Planning Portal]

1st February 2024

Dear Sir/Madam

**PROPOSED INCIDENTAL OUTBUILDING AND HARDSTANDING:
SCHEDULE 2, PART 1, CLASSES E AND F OF THE TOWN AND
COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)
(ENGLAND) ORDER 2015**

AT: GLEBE HOUSE, DARVILLS LANE, SHURLOCK ROW

This Statement accompanies a planning submission seeking a lawful development certificate (for proposed development) to confirm that the erection of 1 no. single-storey building within the curtilage of Glebe House, Shurlock Row (intended to provide a garage for cars and stables) is development of a kind specified within Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("The GPDO").

The GPDO grants deemed permission for buildings within the curtilage of a dwelling which are required for a purpose incidental to the enjoyment of the dwellinghouse, so long as they meet the criteria posed at Paragraphs E.1. – E.3. Going through each of these in turn (the criteria are listed in **bold** print):

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);

Not applicable

(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);

This would not be the case.

Appeal decision Ref: APP/T0355/W/23/3321489 at paragraph 6 confirmed the site area is within the domestic curtilage:

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The proposal would involve the replacement of an existing stable block within the domestic curtilage of the existing residential dwelling comprising four loose boxes with a five bay building comprising two stables, a central feed store, a hay store, a mini tractor shed and lean to log store.

(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 current submission is careful to site the structure to the north/side of the building and not forward of the principal elevation. No change to ground level is required.

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

The building would be single storey only.

(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 height of the building is less than 3 metres above ground level, having a flat roof.

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

The eaves height is no higher than 2.5m above the surrounding ground level.

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

Glebe House, the property in whose curtilage the new building would sit, is not 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; or

(j) the capacity of the container would exceed 3,500 litres.; or

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

This is not applicable.

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 land is not within an Area of Outstanding Natural Beauty.

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.

For the reason above, this is not a relevant consideration.

Turning finally to the question of whether the structure is ‘incidental’ for the purposes of Class E, the GPDO offers no guidance – the acceptability of the proposed structures hinges upon what is considered objectively reasonable based upon the particular circumstances. In the case of *Emin*¹ it was held that reasonableness would not rest “solely on the unrestricted whim” of an occupant, but that the word ‘incidental’ connotes an element of subordination in terms of land use in relation to the dwellinghouse itself.

Officers’ attention is drawn to a Planning Appeal Decision from the London Borough of Hillingdon, dated 16th November 2017 (**PINS Ref: APP/R5510/X/17/3173797** – A copy of this decision is attached to this Statement as **Appendix 1**) for a similar type of building (a single-storey rear outbuilding for use as a sauna / steam-room / indoor pool). In that instance, the appeal property was a 3-bedroom semi-detached house with a long and spacious garden. The Inspector, in reaching his decision, that the Technical Guidance for Householders (published by MHCLG in 2017) makes clear that a purpose incidental to a house does not cover normal residential uses. Therefore, the question for the Inspector to consider was whether the size of outbuilding would be one that was reasonably required to meet the specified individual purpose. In that case, the footprint of the proposed single storey dwelling was to be 116sqm, almost double the 59sqm of the original dwellinghouse. However, the Inspector was satisfied that a swimming pool “will by its very nature occupy a sizeable area. As shown in the drawings, the pool itself would be relatively modest in size. It would not fill the building but have space around it, including wide areas at one side and at the front” (Paragraph 19, 16/11/2017). The inspector’s view was that the structure would not be unreasonably large in size, nor that the space would be used for purposes not connected with the facilities. A reasonably sized area of garden space would be retained – “Given the size of the planning unit and the length of the garden, the size and scale of the building would not be disproportionate, nor would it be excessive in size and scale for the stated purpose. Accordingly, the outbuilding would be reasonably required for a purpose incidental to the enjoyment of the dwellinghouse as such to constitute permitted development within Class E” (Paragraphs 21-22).

In this instance, the proposed building offers a total floor area of around 99sq.m – this is significantly less than the footprint of the dwelling which it is intended to serve. The issue is whether the size of the outbuilding is reasonable required to meet the specified incidental purpose. In this case, the garage/stable building proposed will be for purposes incidental to the enjoyment of the dwellinghouse. In this instance the applicant owns a number of collectible vehicles, which require secure storage, both from a security perspective and to protect from the elements, which is particularly important in this location given the number of trees which shed leaves and sap etc. Finally, the applicant lives in a plot with an extensive area of land, which includes a number of trees and grassed area – the building also therefore provides space for the applicant’s personal horses which occupy the paddock in the wider site. The building is therefore multi-functional and neatly located to serve all these purposes as one; being close to the house (for surveillance) and also well related to the land it will serve. The size of the building is therefore dictated by the applicant’s personal needs and remains incidental to the house, being for hobby related purposes.

On the issue of scale for this building too, case law has established that Class E would allow buildings which are of a larger scale than either an average house, as the

¹ *Emin v Secretary of State for the Environment* [1989] JPL 909

physical size of the outbuilding, whilst a “relevant consideration” in determining whether a use is incidental, is not in itself conclusive. Case law has established that the scale of the outbuilding is dependent on 1) its intended use and whether its scale is determined by the necessity of its purpose, legitimised in this instance due to the applicant’s personal needs and circumstances; and, 2) that the building “would not appear overly large” in the context of a property’s “generously sized garden”.

In respect of the **proposed hardstanding** the following comments are made:

Class F (a) the hardstanding is required for purposes incidental to the enjoyment of the dwellinghouse, Glebe House.

F.1 Glebe House was not permitted by virtue of Class M, N, P, PA or Q of Part 3 of Schedule 2.

F.2 (a) the hardstanding would be located to the front of the dwellinghouse, and

(b) whilst the area of ground covered by the hard surface would exceed 5 square metres, the hard surface is proposed to be made of porous materials.

There are no reasonable grounds to consider that the proposed outbuilding would not be incidental to the use of Glebe House as a dwellinghouse. The size of the proposed building and footprint in particular are appropriate compared to the size of the dwellinghouse it proposes to serve and the footprint of the building is modest compared to the size of the planning unit of Glebe House– a substantial area of garden would be retained to serve the dwellinghouse.

On the basis of the above, we can see no reasonable grounds for RBWM Council to resist this application. The structure proposed (and associated hardstanding) is considered to be lawful within the terms of the GPDO and full planning permission is not considered to be required. A Certificate of Lawful Development should be issued.

I trust you will let us know at the earliest opportunity if any additional information is required.

Yours faithfully,

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Associate

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APPENDIX 1