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Ms A Salter
Planning Department
Sevenoaks District Council
Argyle Road
Sevenoaks
Kent
TN13 1HG

27 March 2024
OUR REF: 24_ch_LDC

Dear Ms Salter

CHART HOUSE, BRASTED CHART, TN16 1LU
LAWFUL DEVELOPMENT CERTIFICATE

Introduction

1. On behalf of the applicants, Mr & Mrs Ferguson I enclose an application for a lawful development certificate. This Planning Statement (outlined below) has been prepared in line with the following documents:
 - Application Form
 - CIL Form
 - Location Plan
 - Block Plan
 - Proposed Drawings
2. The proposed lawful development certificate seeks approval for a single storey outbuilding for the purpose incidental to the enjoyment of the dwellinghouse, within the thresholds of permitted development.
3. The documentation has been carefully considered against Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 and the Permitted Development Rights for Householders Technical Guidance September 2019.

Planning History & Site Constraints

4. The following planning history exists at the property:
 - (i) **Historic Planning History**
 - SW/5/48/110 –Erection of garage and fuel store;

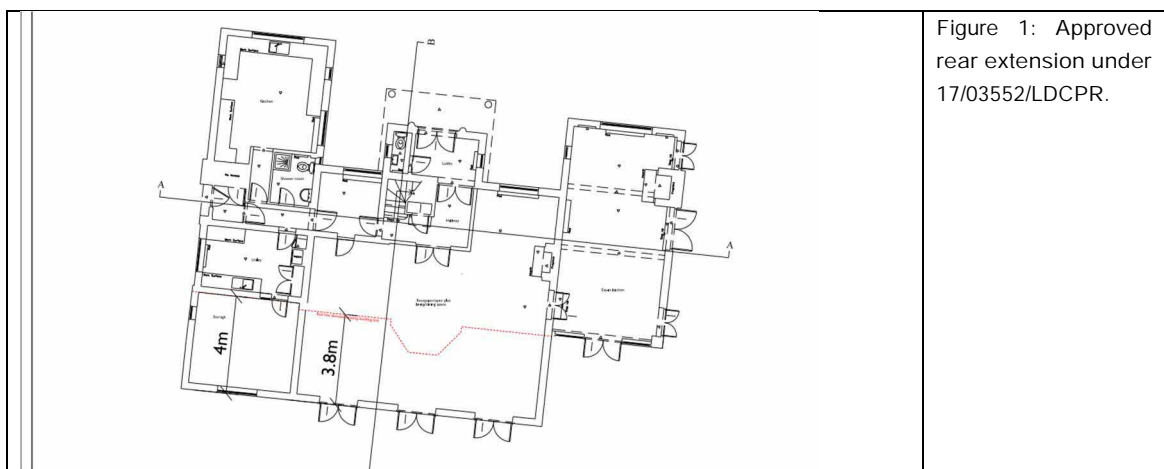
- SW/5/62/447 –Extension to form additional bedroom and bathroom accommodation
- 78/1272 –Extension to **side** dwelling
- 83/00860 –First floor extension to dwelling
- 84/00666- External staircase
- 86/00446 –Extension to garage
- 99/01709/FUL - Construction of single storey detached double garage.

5. Having reviewed the historic decision notices, it can be confirmed that permitted development rights were not removed by planning condition.

(ii) **Recent Planning History**

- 17/03552/LDCPR - Erection of a single storey **rear** extension. Granted
- 19/01984/HOUSE - Erection of side and rear single storey extension with basement, extension to store room, demolition of existing garage, erection of new garage with creation of extended driveway, rooflight, juliette balconies and alterations to fenestration. Granted
- 23/00645/HOUSE - Erection of side and rear single storey extension with basement, extension to store room, demolition of existing garage, erection of new garage with creation of extended driveway, rooflight, juliette balconies and alterations to fenestration. Granted

6. The 2017 lawful development certificate established that the southern elevation of the property was the “original” rear elevation of the property. An extract of the approved plan is outlined below. This confirms that the northern elevation of the property is the principal / front elevation.



7. The Council subsequently permitted the erection of a **side** and rear extension under the 2019 and 2023 permissions (both represented the same proposal). Extract below:

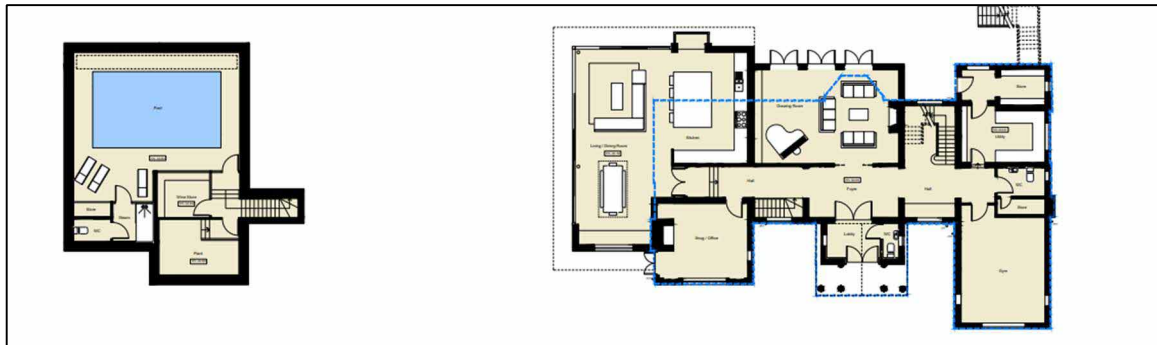


Figure 2: Approved 2023 plans.

8. This again confirmed that the side elevations are the east and west elevations of the property. The 2023 permission removed permitted development rights via condition (condition 4). However, as the permission has not been implemented yet, this condition has not come into force.
9. For this reason, the property continues to benefit from permitted development rights.
10. There are no Article 4 directions which cover the site.
11. The site is situated on Article 2(3) land as it is located in the Kent Downs National Landscape.

Planning Assessment

12. The application requires the Council to consider whether the proposed outbuilding is classified as permitted development under Schedule 2, Part 1, Class E of the Town and Country Planning General Permitted Development Order (GPDO).

Outbuilding

13. Class E sets out the rules on permitted development for buildings within the curtilage of a house. Buildings under Class E should be built for purposes incidental to the enjoyment of the house. But 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 properly be described as having a purpose incidental to the enjoyment of the house.

14. The outbuilding will be used for purposes incidental to the enjoyment of the dwelling house. In *Emin v SSE* (1989) JPL 909 it was said that *“the fact that such a building had to be required for a purpose associated with the enjoyment of the dwellinghouse could not rest solely on the unrestrained whim of him who dwelt there. It connoted an element of subordination in land use terms in relation to the enjoyment of the dwellinghouse itself.”* Purpose incidental to the enjoyment of the dwellinghouse as such is a broad concept. It is a matter of fact and degree in each case. The building must be “required” for the incidental purpose; it is a matter primarily for the occupier to demonstrate what incidental purpose he intends to enjoy.
15. Following the approval of the 2023 permission, the applicant has reconsidered the viability of the basement. It is instead proposed to erect an outbuilding which will be used as a swimming pool, garden room and gym. The proposed outbuilding will reflect the approved uses under the 2023 plans. The proposed outbuilding is 96.1sqm whilst the approved basement was 97.1sqm and therefore comparable in size to accommodation already permitted by the Council. Given that the Council have already approved the residential uses as part of planning permission 23/00645/HOUSE it can be assessed that the proposed building will be incidental to the enjoyment of the house.
16. In the context of the above legislation, it is important to assess the proposed outbuilding against the relevant criteria of the GPDO in turn:
- (a) Permission to use the dwellinghouse as a dwellinghouse has been granted by virtue of Class M, N, P, Pa or Q of Part 2 of this Schedule (change of use)?**
17. The dwellinghouse was not approved under the above change of use criteria and therefore is not applicable in this case.
- (b) The total area of ground covered by building, 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).**
18. Due to the size of the outbuilding and size of the plot, the proposal is in accordance with this criterion.
- (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.**
19. As shown in the planning history section, under the 2017 lawful development certificate, the Council have previously agreed that the southern elevation is the rear elevation of the original

dwellinghouse. This makes the northern elevation the principal elevation of the original dwellinghouse. For this reason, the outbuilding is not situated on land forward of a wall forming the principal elevation of the original dwellinghouse.

(d) The building would have more than one storey.

20. The proposed outbuilding is 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;

(iii) 3 metres in any other case.

21. The proposed outbuilding is beyond 2m of the boundary of the curtilage and 3m in height.

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

22. The height of the eaves of the outbuilding does not exceed 2.5 metres.

(g) The building would be situated within the curtilage of a listed building.

23. The host building is not listed.

24. The following conditions also apply which are addressed in turn.

E.2 In the case of any land within the curtilage of the dwelling which is within:

(c) An area of outstanding natural beauty;

Development is not permitted by Class E if the total area of ground covered by building situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.

25. The site is located within the Kent Downs National Landscape. The building is situated within 20m of the rear elevation of the dwellinghouse and therefore the proposal is in accordance with this criterion.

E.3 In the case of any land within the dwellinghouse which is article 2(3) land, development is not permitted by Class E if any part of the building would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.

26. The dwellinghouse has its side elevations on the eastern and western flanks of the property. As shown by the extract from the Householder Technical Guidance, the proposed building will not be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse and will be located to the rear instead.

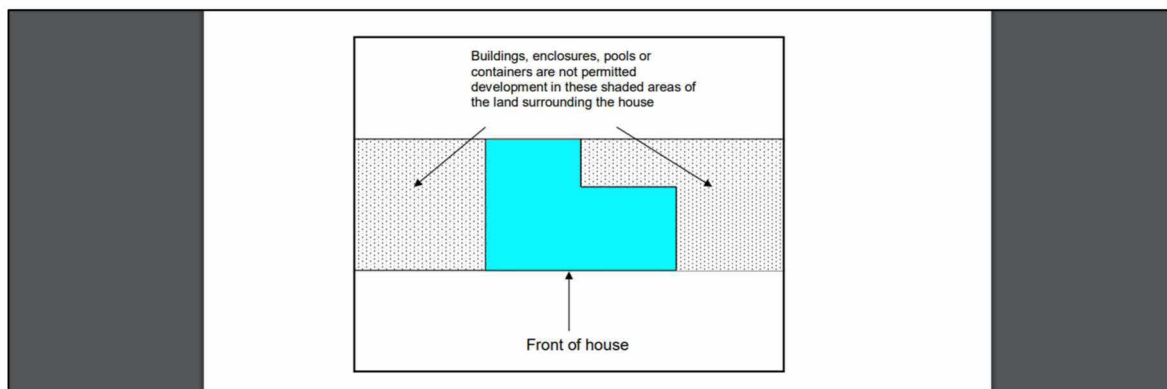


Figure 3: Extract from Householder Technical Guidance.

27. In conclusion therefore, the proposed outbuilding meets the criteria set out in Schedule 2, Part 1, Class E of the GPDO.

Conclusion

28. I trust you have all of the necessary information to approve this lawful development certificate. However, should you require any further information, please do not hesitate to contact me in the first instance.

Yours sincerely

[Redacted signature]

Neal Thompson BSc (Hons) MSc MRTPI
ROBINSON ESCOTT PLANNING