
Delegated report Officer: Richard McMichael

Application ref. DMPN/2021/1570

Lawful development certificate for a proposed garden room at Rayworth Cottage, Grassy Lane, Burnaston, Derby, DE65 6LN

Valid date: 14/10/2021

Consults expired: 12/11/2021

EIA development? No

Section 106 agreement? Not required

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

DMPA/2021/0608 – The demolition of existing detached garage and the erection of a rear two-storey extension. Approved, July 2021.

9/2018/0972 – The erection of a replacement garage. Refused, Nov 2018.

9/2018/0149 – Erection of detached garage (approved)

9/2017/0293 - Retrospective change of use (from agricultural) to domestic garden (approved with condition removing pd rights for outbuildings and means of enclosure). Site of proposed outbuilding not included within red line for this permission.

9/2015/0930 – The erection of extensions. Approved, Nov 2015.

Responses to consultations and publicity

No responses required.

Relevant policy, guidance and/or legislation

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

The relevant legislation is:

- Section 192 of the Town and Country Planning Act 1990
- Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015

Planning considerations

A Lawful Development Certificate determines whether a proposed or existing development is lawful. The statutory framework covering 'lawfulness' is set out in section 191(2) of the Act. In summary, lawful development is development against which no enforcement action may be taken and where no enforcement notice is in force, or, for which planning permission is not required. In this case, the proposed development must comply with Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015, which covers buildings etc. incidental to the enjoyment of a dwellinghouse.

Planning assessment

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, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use);
- The dwelling was not granted under any of the classes.

(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 proposed outbuilding and other outbuildings and extensions would not exceed this limit.

(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 outbuilding would be located to the side of the property.

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

- The outbuilding would 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 outbuilding would not exceed this limit.

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

- The outbuilding would not exceed this limit.

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

- N/A

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

- N/A

(i) it relates to a dwelling or a microwave antenna;

- N/A

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

- N/A

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

- N/A

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.

- N/A

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.

- N/A

Recommendation

Approve

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation made:	14/12/2021
Report agreed:	14/12/2021
Authorised officer:	Emma Palmer-Barnes
