

Application Number:	23/00316/CPL
Location:	18 Bowness Avenue, Rochdale OL12 7DN
Proposal:	Application for a certificate of lawfulness for a proposed single storey detached building incidental to the existing dwelling house
Applicant:	JEAN TOD
Case Officer:	Chelsea Petrillo
Recommendation:	Grant

Location

The application relates to 18 Bowness Avenue, a two-storey terrace property located within a cul-de-sac in the Spotland and Falinge ward of Rochdale benefitting from a substantially large rear garden, off-road parking to the front and rear and a rear conservatory.

Description of Proposal

A certificate of lawfulness is sought for a single storey detached building that is stated to be incidental to the existing dwelling house located at the rear of the rear garden hosting a games room, office, gym and garage.

Is the proposal wholly within the curtilage of the dwellinghouse?

Yes

Relevant History

None Applicable

Permitted Development Rights removed?

Cannot locate original permission

Representations

In accordance with the Council's code for publicity for this type of application, no letters of notification have been issued.

Legislation and Guidance

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Permitted development rights for householders – Technical Guidance (September 2019)

Assessment (Class E)

The Town and Country Planning Act 1990 does not provide a hard definition as to what constitutes as "incidental to the enjoyment of the original dwellinghouse", nor does the GDPO however, paragraph E.4 of Class E indicates the provision of "incidental" includes the "keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the house." Class E does not however constitute "incidental" to the enjoyment of the original dwellinghouse where residential uses, primary living accommodation or self-contained accommodation is proposed such as bedrooms, bathrooms or kitchens. It is considered the right approach based on case law in determining whether an

outbuilding can be considered incidental is to apply an element of objective reasonableness.

The outbuilding, located in the rear garden of 18 Bowness Avenue, proposes a games room, gym, office, hall and garage. It is noted the garage and a smaller store are currently existing on site, both in place of the proposed location of the outbuilding. The outbuilding proposes the grouping of these elements together with the addition of essentially, an infill extension all within the original site curtilage.

The outbuilding itself does not propose primary residential use as all elements of the building can be considered "secondary" to the primary use of the original dwellinghouse. It is acknowledged by virtue of its size, the outbuilding would constitute over 100% of the footprint of the original dwellinghouse (to which the enjoyment cannot be determined on the basis of footprint or volume) to which it would satisfy physical dimensions set out for class E. However, the function of the original dwellinghouse would provide the primary uses for occupiers on this site meaning the outbuilding could not exist solely on its own without the presence of the original dwellinghouse. The outbuilding is to be used as additional hobbies for the occupiers and poses no living accommodation which are considered "primary" to a standard dwellinghouse therefore it is considered the proposal would satisfy class E (a) requirement in being considered "incidental" to the original dwellinghouse.

Class E of Part 1 of Schedule 2 of the GPDO allows for:

- 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.

- (a) Permission to use the dwellinghouse as a dwelling has not been granted only by virtue of Class M,N,P or Q of Part 3 of the GPDO

☒ **Complies**

☐ **Does Not Comply**

- (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).

☒ **Complies**

☐ **Does Not Comply**

- (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.

☒ **Complies**

☐ **Does Not Comply**

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

☒ **Complies**

☐ **Does Not Comply**

(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.

☒ **Complies**

☐ **Does Not Comply**

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

☒ **Complies**

☐ **Does Not Comply**

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

☒ **Complies**

☐ **Does Not Comply**

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

☒ **Complies**

☐ **Does Not Comply**

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

☒ **Complies**

☐ **Does Not Comply**

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

☒ **Complies**

☐ **Does Not Comply**

Paragraph **E.2** of the above order stipulates that development is permitted by Class E would not be permitted if any part of the curtilage of the dwellinghouse is within –

- (a) an area of outstanding natural beauty;
- (b) the Broads;
- (c) a National Park; or
- (d) a World Heritage Site

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.

☒ **Complies**

☐ **Does Not Comply**

Paragraph **E.3** further states 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

☒ **Complies**

☐ **Does Not Comply**

Recommendation: Grant

The proposal constitutes permitted development by virtue of compliance with the requirements of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Notes for applicant:

For the avoidance of doubt, the decision relates to the following drawings:-

- 20.2322.SC1.2B Existing and Proposed Site Plans
- 20.2322.SC1.3 Existing and Proposed Block Plans
- 20.2322.SC1.1C Proposed Details

	Date	Officer
Report Completed	12.04.2023	Signed: CP
Authorisation	17.05.23	Signed: LA

Report Author Chelsea Petrillo