

4.4 21/03346/LDCPR Revised expiry date 20 January 2022

Proposal: Detached garden building and separate WC building.

Location: Aberdeen House, Main Road, Knockholt KENT TN14 7JD

Ward(s): Halstead, Knockholt & Badgers Mount

Item for decision

Councillor Grint has referred the application to Committee based on the concern that the proposed development would not be incidental to the enjoyment of the dwelling.

RECOMMENDATION: That a Lawful Development Certificate be **GRANTED** for the following reasons:

The proposal would comply with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 and therefore would be permitted development. Planning permission is not required.

Description of proposal

1 Construction of a detached garden building and separate WC building.

Description of site

2 The site is a two-storey detached dwelling located within the residential Main Road, Knockholt. It is located within the Green Belt.

Relevant planning history

3 20/03283/LDCPR: Demolition of detached garage and erection of a detached building for use as a games room and home office. Grant 13/01/2021.

Constraints

4 No relevant constraints for the determination of the case

Background information

5 This application is for a Lawful Development Certificate for proposed works, to determine whether those works are permitted development or whether planning permission is required.

- 6 No consultations are required for this type of application and there are no planning policies that are relevant. This is a test against legislation and in this case the legislation is the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (to be referred to as ‘the Order’).
- 7 If the proposed works comply with the requirements of the Order, then we are obliged to confirm that the works would be permitted development, and grant a Lawful Development Certificate.
- 8 If the proposed works would not comply with the requirements of the Order, we would confirm that the works require planning permission and refuse a Lawful Development Certificate.

Chief Planning Officer’s Appraisal

- 9 Whether the proposed use applied for is Lawful
- 10 The application is assessed under Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 11 The planning history has been checked and permitted development rights are still intact for the property in relation to the proposed development. The proposed Construction of a detached garden building and separate WC building will be assessed under the criteria in Schedule 2, Part 1, Class E.
- 12 CLASS E - Buildings etc. incidental to the enjoyment of a dwellinghouse
- 13 **The provision within the curtilage of the dwellinghouse of:**
 - (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 alterations of such a building or enclosure;**
- 14 The legislation then provides a list of criteria to be met.
- 15 However before considering these criteria, in this instance Members have raised the question of whether the proposed open side barn and separate toilet cubical would be required for a purpose *incidental* to the enjoyment of the dwellinghouse.
- 16 The Technical Guidance relating to Permitted Development states that buildings should be built for purposes incidental to the enjoyment of the house. A purpose incidental to a dwellinghouse would not cover normally include uses such as entirely fully self-contained living accommodation, although ancillary living accommodation is not uncommon. The proposed development would be an open-sided barn, akin to an open car port. Despite the separate toilet cubical proposed, the buildings would not have the facilities to be used independently to the original dwelling.

17 Case law has referred to the need to consider whether “the nature of the activities carried out in the proposed building ensure they are incidental or conducive to the very condition of living in the dwelling house.”
Furthermore, whilst the size of an outbuilding may be relevant, it is not necessarily a conclusive. It has been held that incidental connotes an element of subordination in land use terms in relation to the enjoyment of the dwelling house itself. In my view the open sided design of the barn would ensure that it would appear subordinate to the main house and it would, for example, restrict any potential for independent commercial use.

18 In addition, the agent has confirmed in writing that:

19 “The applicant, having enjoyed time in the garden during the summer, now considers that an enclosed garden room is unnecessary & wishes to be able to continue to enjoy the garden during the remaining seasons by creating an open sided, roofed structure that will provide her a facility under which she can be semi sheltered from the elements & still enjoy the benefits of be outside in her garden. The applicant is a keen gardener & as such spends much of time in the garden & requires an outside WC to avoid having to traipse through the kitchen to the bathroom for comfort breaks. I trust this confirms that the use of the structure is indeed purely for purposes incidental to the enjoyment of the principal dwelling.”

20 I consider the size of the building proposed to be acceptable and there is no evidence that the buildings would be used in a manner unconnected with the house. On the evidence above I am satisfied that the buildings would be incidental to the enjoyment of the house.

21 The proposals therefore fall to be considered under the following criteria:

22 **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 of Class G, M, MA, N, P or Q of Part 3 of this Schedule (changes of use);

- This does not apply

(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 garden building and WC would not cover an area greater than 50% of the 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 proposal would not

extend beyond the plane of the existing roofslope which forms a principal elevation.

- The proposed buildings would be situated at the rear of the dwelling.

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

- The building would not have more than a 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 WC would be located within 2 metres of the boundary of the curtilage of the dwelling, however, its height would be of 2.4 metres. The detached garden building would have a height of 3.864 metres and would have a hipped roof.

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

- The height of the eaves would be 2.257 metres.

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

- The dwelling on site is not listed and is not within the curtilage of a listed building.

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

- The outbuildings would not include any of these elements.

(i) It relates to a microwave antenna;

- The proposal would not relate to a microwave antenna.

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

- Not applicable.

23 E2. In the case of any land within the curtilage of the dwellinghouse which is within:

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

24 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 dwelling is not located within any of the mentioned areas

25 The proposed outbuildings are therefore in accordance with the criteria of Class E of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended), and are permitted development.

Other Matters

- 26 One letter of objection from a neighbouring properties and one letter of objection from the Parish Council have been received and raise the following concerns:
- The potential impact of the development on the “peace and tranquility” of the household.
 - More frequent social gatherings and associated noise, social activity and footfall, particularly in the evenings.
 - The development would not be in keeping with the area’s character.
 - The measurements provided on the plans were “almost impossible to decipher”.
 - The development would take away from the car parking for the site where there is no off road parking.
 - The bulk would detract from the residential amenities of the area and does not afford access of vehicles from the drive.
 - The development would adversely impact the amenities of the neighbouring properties.
- 27 However, these are not matters that can be considered under the determination of a lawful development certificate, which decides whether or not a planning application is required. The LDC application does not make a judgement on the merits of the design or impact upon neighbouring properties.

Conclusion

28 The proposals would constitute permitted development as it conforms to Schedule 2, Part 1, Classes E of the Town and Country General Permitted Development (England) Order 2015 (as amended).

Therefore, no planning application is required for these works.

Background Papers

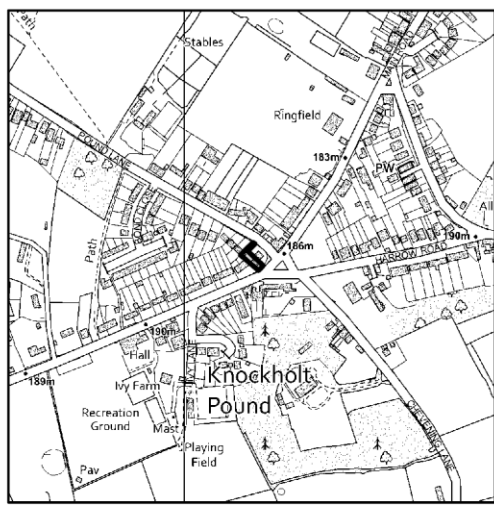
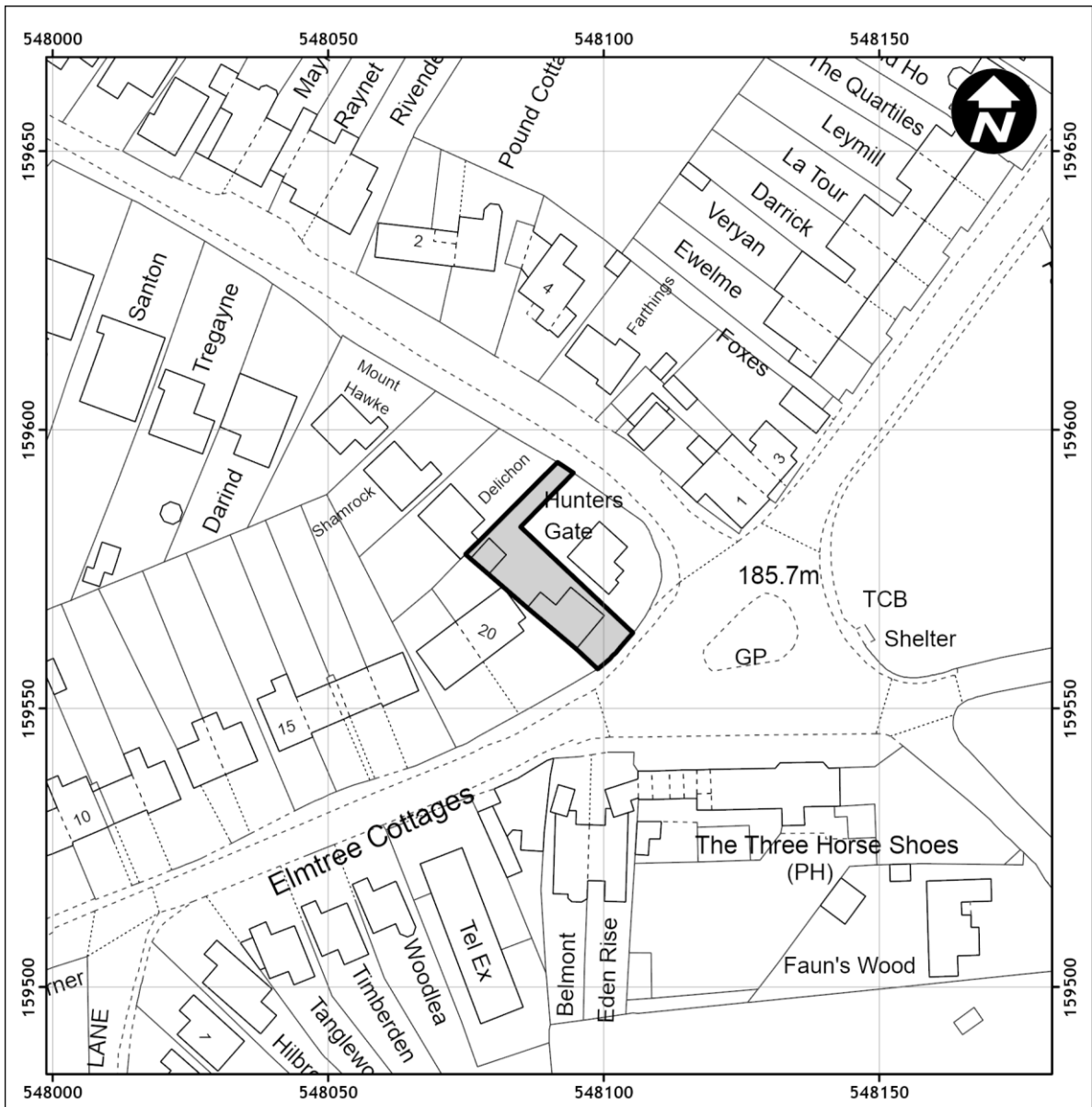
Site and Block Plan

Contact Officer(s): Eliot Froment Contact: 01732 227000

Richard Morris
Chief Planning Officer

[Link to application details:](#)

[Link to associated documents:](#)



<h1>Site Plan</h1>	
Scale	1:1,250
Date	11/12/2021
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BLOCK PLAN

