

Town and Country Planning (General Permitted Development) Order 2020 (as amended)

Application for a Certificate of Lawfulness for Outbuildings

Schedule 2 Part 1 Class E

The Site

The site subject to the application is as above described being a residential property located on the western side of the road in the suburban fringe of the town. It is set back from the road and has been extended in various forms. Several outbuildings have been built in the grounds but none of which are forward of any part of the frontage of the dwelling between the dwelling and the road.

The buildings subject to the Application

The application covers three buildings erected within 2m of the boundaries of the site:

1. An extension to an existing building at the southern boundary 3.85m at the ridge,
2. A garden room 3.6m at the ridge near the north boundary and
3. A lawnmower shed 3.5m at the ridge at the rear boundary.

Legislative Assessment

The Planning Act 2008 (Commencement No. 8) and Levelling-up and Regeneration Act 2023 (Commencement No. 4 and Transitional Provisions) Regulations 2024 altered time limits for immunity from enforcement action in respect of breaches of Planning regulations.

A summary of the changes includes the following:

- Use of an outbuilding as a separate single dwelling – 4 years if works were substantially complete by 25th April 2024
- Construction of a single dwelling (C3) – 4 years if works were substantially complete by 25th April 2024

- Extension of an existing building – 4 years if works were substantially complete by 25th April 2024
- Conversion of a building to a single holiday let – 4 years if works were substantially complete by 25th April 2024
- Conversion of a commercial building to a single dwelling (C3) – 4 years if works were substantially complete by 25th April 2024
- Construction of a new building of the same use within the site, provided the designation of the land wasn't changed – 4 years if works were substantially complete by 25th April 2024
- New fences, gates, walls etc. – 4 years if works were substantially complete by 25th April 2024
- Use of a building as an HMO (C4 or Sui Generis) – 10 years at all times
- Commercial use of a barn for a non-agricultural use – 10 years at all times
- Change of use (except to a dwelling) – 10 years at all times
- Conversion of agricultural land to garden land – 10 years at all times
- Breach of conditions – 10 years at all times, unless it relates to a residential item which is covered under the 4 year rule. As confirmed by [First Secretary of State v Arun District Council and Brown](#) [2006] and works were substantially complete by 25th April 2024

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 2 of this Schedule (change of use)

This does not apply to this property.

(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)

More than 50% of the plot excluding the original dwelling's area of coverage remains.

(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

None of the outbuildings are sited forward of any part of the frontage of the host dwelling's front elevation.

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

All of the three outbuildings are of single storey construction.

(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

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

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

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

All three buildings are situated within 2 metres of the boundary and their heights exceed the above limitations. This would ordinarily necessitate planning permission.

E.2 In the case of any land within the curtilage of the dwellinghouse which is within -

1. *(a) a World Heritage Site,*
2. *(b) a National Park, ,*
3. *(c) an area of outstanding natural beauty or*
4. *(d) the Broads,*

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 buildings are not within any of the above designated locations.

The buildings have been in place for over four years and as evidence the attached suitably dated aerial photographs and other photos are provided to prove their continuous presence for at least this length of time to the date of application.

In addition signed statements are submitted confirming the dates of siting of the subject outbuildings.

The condition of the buildings and their weathering also demonstrate that they are more than likely to have been in place for well beyond the requisite qualifying length of time to avoid any enforcement action.

In summary it is submitted that on the basis of the evidence as provided, on the balance of probability the buildings are thereby outwith the scope of planning enforcement as set out within the relevant Planning legislation.