

DELEGATED FILE NOTE

CASE OFFICER: ...Henry Thomas.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
24/02322/LDCP	Erection of detached stable/storage block.	Valentine House Partridge Hill Ashwell Baldock Hertfordshire SG7 5QZ

Submitted Plan Nos

B4 B5 B6 Location Plan Block Plan B1 B2 B3

1.0 Policies

2.0 **Site History**

- 2.1 23/02830/NMA - Change of floor level of consented garage to accommodate gradient of driveway; lowering of floor slab on northern flank of garage; repositioning of pedestrian access door to centre of eastern elevation (as a non-material amendment to planning permission reference 23/01201/FPH granted on 12.07.2023).
- 2.2 23/01201/FPH - Erection of detached double garage with ancillary storage with useable roof space (as a variation of planning permission 23/00548/FPH granted on 02.05.2023).
- 2.3 23/00548/FPH - Erection of detached double garage with ancillary storage with useable roof space.
- 2.4 22/00934/S73 - Section 73 application to remove condition 3 which restricts permitted development rights (Class E), as imposed on the original planning permission reference 94/00713/1 granted on 21.06.1994 for detached 4-bedroom dwelling with double garage.
- 2.4 01/00290/1HH - Summerhouse and Gazebo.
- 2.5 94/00713/1 - Detached 4-bedroom dwelling with double garage

3.0 **Representations**

- 3.1 None consulted.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

- 4.1.1 The site comprises a detached two storey dwelling on a spacious plot, and separate outbuildings on the east side of Patridge Hill in a residential part of Ashwell. The site is not located within the Ashwell Conservation Area.

4.2 **Proposal**

- 4.2.1 A Certificate of Lawfulness (proposed) is sought for the erection of a detached stable / storage outbuilding with a pitched roof at the rear of the site; to be used as a stable for 2 horses, storage for tack, associated vehicle storage, a kitchenette, shower and open wash area.

4.3 **Key Issues**

- 4.3.1 The key issues for consideration are whether the proposed development would require a specific planning permission or be considered 'permitted development' in line with the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 1, Class E, as amended. Class E permitted development rights have not been removed by Condition.

4.3.2 E. *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 alteration of such a building or enclosure; or

Under the case of *Emin v SSE and Mid Sussex DC* [1989], which deals with the questions of building size and incidental uses. The Court held in that case that whereas the relative sizes of the proposed leisure building and the house might be an important consideration, it is not by itself conclusive in determining whether uses meet the “incidental” test. It is also necessary to consider the incidental quality of the uses in relation to the enjoyment of the dwelling house and whether the building is genuinely and reasonably required for its intended purposes. The burden of proof in such matters is upon the appellant to show that the proposal is genuinely and reasonably required.

The applicant seeks the construction of a large multipurpose outbuilding to the north-east corner of the garden. The outbuilding would have a footprint of approximately 104.6m² and would consist of 2 stables, a shower room, a kitchenette and storage for tack and two vehicles / trailers. The outbuilding would also have an open wash area with a roof.

I attach the following excerpt from appeal decision Code b00548 (March 2024)

Paragraph E.4 of Class E states ‘For the purposes of Class E, “purpose incidental to the enjoyment of the dwellinghouse as such” includes the keeping of...pet animals...or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse’.

The horses stabled in the proposed building would not be used for working the land and therefore would not be considered livestock. Nevertheless, they would be pet animals for the personal enjoyment of the occupants of the dwellinghouse. Therefore, in principle, the stabling of horses is a use incidental to the enjoyment of the dwellinghouse. The question is then whether the proposed building is genuinely and reasonably required or necessary in order to accommodate the proposed use.”

Although the inspector concludes that the “*due to its excessive size, I do not consider that it is genuinely and reasonably required or necessary in order to accommodate the stabling of the horses.*” The inspector considers that the keeping of horses in a residential setting as pets would be considered incidental. This is further ratified in Code b00038 (March 2011) The Inspector stated the following:

“Applying the test of objective reasonableness to the appeal case, I would be reluctant to conclude that the keeping of two pet horses within the curtilage of this particular dwelling would amount to a material change of use. I would accept that it would be unusual to keep horses in a fairly small domestic garden such as this. It might be unexpected that someone would wish to do so, but I do not think it would be so outside the norm that it could be said to be unreasonable. That being so, the provisions of the relevant part of the GPDO can be applied at face value.

Thus, if the appellant intends to keep two pet horses within the curtilage of the dwellinghouse, that would be a use that would be incidental to the enjoyment of the dwellinghouse as such and any building for that purpose would be permitted by virtue of Class E of Part 1 to Schedule 2 of the GPDO, provided that it was not excluded from the permission by reason of its size or location (exclusions E.1, E.2 and E.3 already referred to)."

In my view, the applicant has submitted sufficient evidence to support the keeping of horses as pets. The proposed stables would meet the minimum size guidance for stables advocated by the British Horse Society and DEFRA. In addition, sufficient information has been submitted to justify the large storage area to accommodate tack and associated vehicles / trailers for the stables. I am satisfied that the provision of a shower and kitchenette would be ancillary to the stable and storage uses of this building. Therefore, I would conclude that an outbuilding of this scale would be genuinely and reasonably required for its intended purposes and would be considered subordinate to the dwelling. As such, I consider this development to be incidental to the enjoyment of the dwellinghouse.

(b)a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

The building would not involve the storage of oil or liquid petroleum gas.

4.3.3 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 3 of this Schedule (changes of use);

The property was originally built as a dwellinghouse and so complies with this criterion.

(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 total area of ground covered by buildings, enclosures and containers within the curtilage, would not exceed 50% of the total area of the curtilage and so complies 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;

The proposed outbuilding would be sited in the rear garden and would not be situated on land forward of a wall forming the principal elevation of the original dwellinghouse, and so complies with this criterion.

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

The proposal is single storey and so complies with this criterion.

(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 building would be more than 2m from the boundary and the height would not exceed 4m, and so complies with this criterion.

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

The height of the eaves would not exceed 2.5m and so complies with this criterion.

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

The property is not a listed building and so complies with this criterion.

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

The proposal does not include any of the above and so complies with this criterion.

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

The proposal relates to an outbuilding in the garden of a dwelling and so complies with this criterion.

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

The proposal does not relate to a container and so complies with this criterion.

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.

The proposal complies with this criterion.

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.

The proposal complies with this criterion.

E.4 For the purposes of Class E, “purpose incidental to the enjoyment of the dwellinghouse as such” includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse

The proposed building is considered to comprise uses incidental to the enjoyment of the dwellinghouse, and complies with this criterion.

4.4 Conclusion

- 4.4.1 A Certificate of Lawfulness (proposed) can be issued on the basis that the proposed ‘Erection of outbuilding in rear garden to provide office a stable for 2 horses, storage for tack, associated vehicle storage, a kitchenette, shower and open wash area.’ constitutes permitted development by virtue of Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed  Sarah Kasparian	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Determining Officer Date: 14 November 2024	