

2021/1231

Kelly French

Erection of detached outbuilding to rear (Lawful development certificate for a proposed development)

1 Beeston Square, Athersley North, Barnsley. S71 3DW

Site Description

The application relates to a 2 storey, brick built, semi detached dwelling located within a predominantly residential area. To the front of the dwelling is a garden area and hardstanding for parking. To the side of the dwelling are outbuildings and to the rear is an enclosed garden area. Adjacent to the rear boundary the base for the outbuilding has already been laid and the walls constructed.

There is an attached neighbouring property to the South, semi detached dwellings at 90 degrees fronting Ollerton Road to the North and dwellings fronting Laxton Road, beyond the rear boundary, to the West.

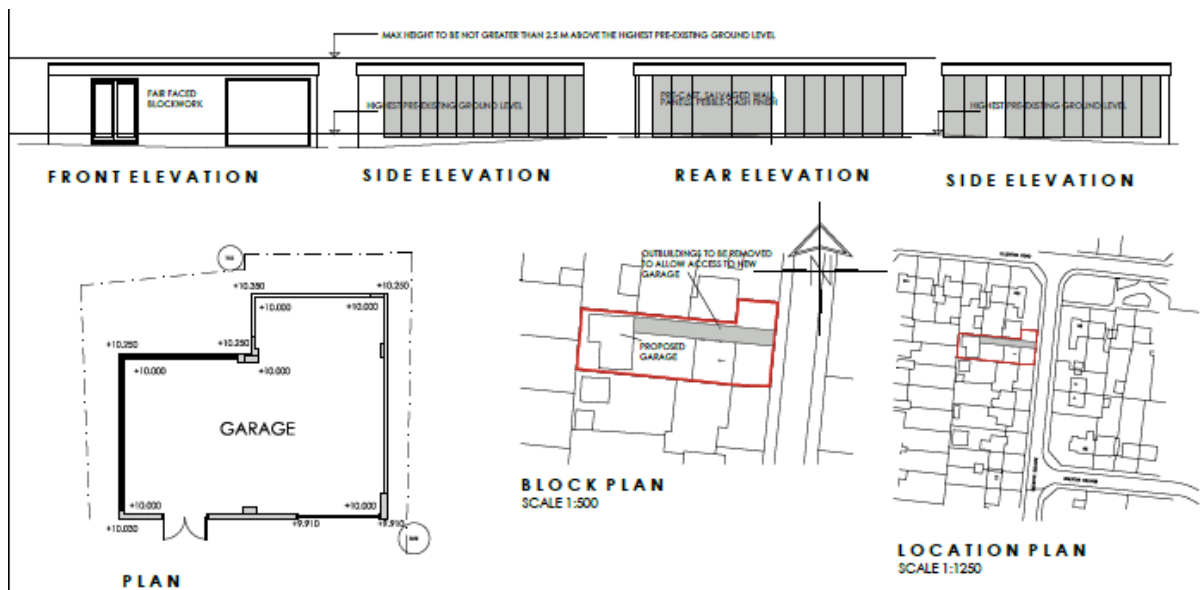


Proposed Development

The applicant has applied for a certificate of lawfulness for the erection of a detached outbuilding to be used as a garage/store/workshop.

The 'L' shaped building will have a floor area of approx. 50m², with flat roof with a height of circa 2.3m above the highest ground level.

Construction of the outbuilding has commenced, with officers from the LPA visiting the site on 04/10/21.



Legal Context

The Town and Country Planning (General Permitted Development) (England) Order 2015 allows householders to extend their property provided certain criteria is met. Under Class E of Part 1 of Schedule 2 of this act, development is permitted for 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
- b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.

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 or Q of Part 3 of this Schedule (changes of use);
- 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);
- 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;
- d) the building would 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;
- 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 veranda, balcony or raised platform;
- i) it relates to a dwelling or a microwave antenna; or
- j) the capacity of the container would exceed 3,500 litres.

There are other limitations on the permitted development rights for outbuildings however; these do not apply to the application site.

For the purposes of Class E, a purpose incidental to the enjoyment of the dwellinghouse 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. Other examples include common buildings such as garden sheds, other storage buildings, garages, and garden decking as long as they can properly be described as having a purpose incidental to the enjoyment of the house. A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen.

This is set out in the supporting text of the 'Permitted development rights for householders – Technical Guidance', a supplementary document to the General Permitted Development Order 2015.

Consultations

Legal Services – no objections subject to compliance with class E of Part 1 of the GDPO 2015.

Planning Enforcement – No comments received

Ward Councillors – One Cllr has responded stating no objection subject to separation from boundary and height as stated on plans.

Representations

None

Assessment

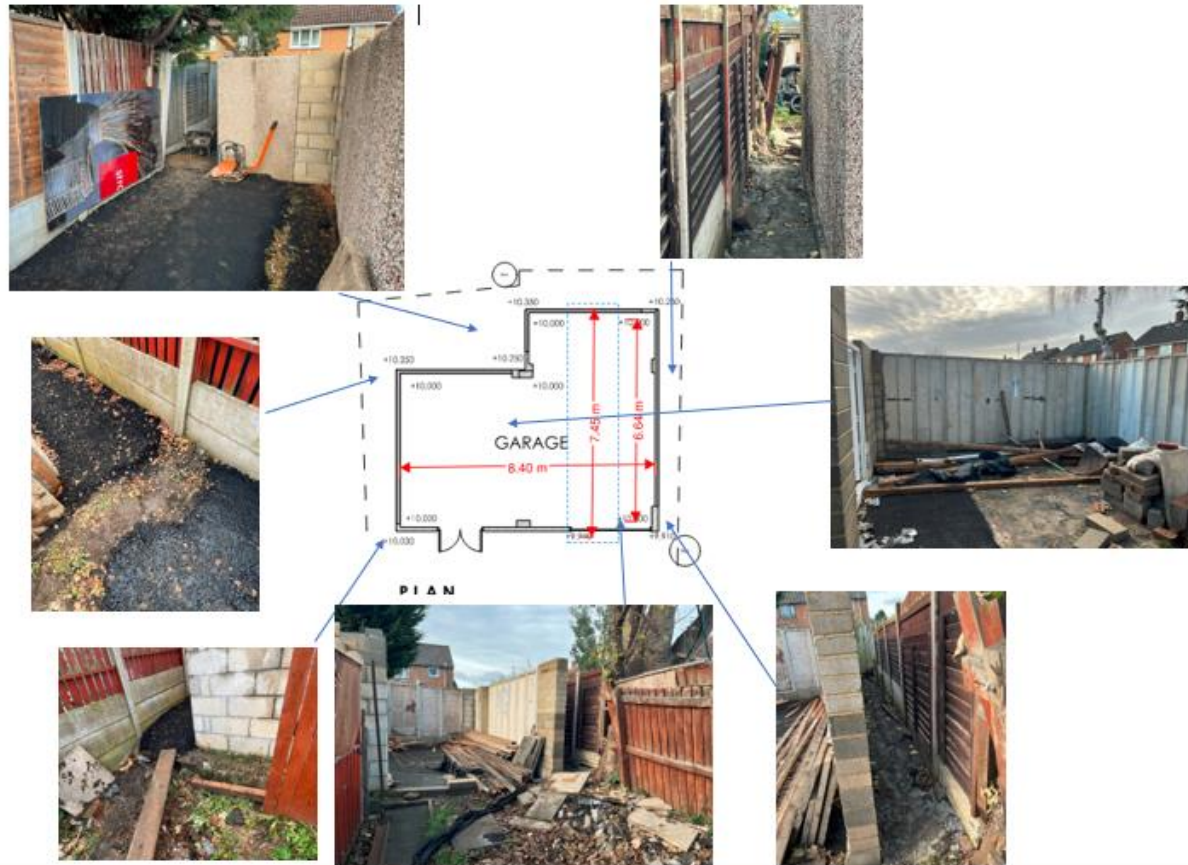
For lawful development certificate applications the assessment needs to be based upon whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage.

In this case the proposed building is within 2m of the site boundaries and as such, the maximum height the building can be comply with the GPDO is 2.5m. The submitted plans indicate that the maximum height of the proposed building will be circa 2.3m above the original highest ground level. This complies with the relevant parts of Class E of Schedule 2, Part 1 of the GPDO. It is noted that some areas of the building will exceed 2.5m from the ground they are built off, however, the Permitted Development Rights for Householders Technical Guidance states 'the height of the building, enclosure or container should be measured from the highest ground level immediately adjacent to the building, enclosure, or container to its highest point'.

The plans are accompanied by notations detailing the existing grounds levels on all four corners of the proposed building and immediately to the rear. They show that the highest pre-existing ground level is to the rear, with the ground level being 0.44m higher than the ground level at the front of the building. The rear of the building is approximately 2.7m in height but seeing as the GDPO technical

guidance allows the ground measurement to be based upon the highest pre-existing ground level the 0.44m can be subtracted from the 2.7m height meaning that the height of the rear of the building is below the maximum 2.5m height threshold in order to fall within the limitations of the GDPO.

A site visit was conducted in order to verify the levels. The site visit photos and their locations are shown below;



The building's footprint of circa 50m² is significantly below 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse); the host property is not listed and the position of the outbuilding is not situated on land forward of a wall forming the principal elevation of the original dwellinghouse, again, in accordance with Class E of Schedule 2, Part 1 of the GPDO.

Buildings under Class E should be built for purposes incidental to the enjoyment of the house. The GPDO technical guidance states that a use incidental to the enjoyment of the dwelling house includes keeping of pets and other animals for personal enjoyment or domestic need of the occupants of the dwelling, as well as outbuildings such as sheds, garages etc. that are for a purpose incidental to the enjoyment of the dwellinghouse. The applicants have listed the following uses for the building;

- Garage for racing car that is a recreational vehicle used as a hobby
- Workshop for racing car
- Storage for spares, tyres etc.
- Ancillary trailer and ramps used in connection with racing car
- Racing attire, helmets, clothing etc
- Jack and tools for maintenance of racing car
- Motor cycle, helmets and associated riding gear
- 3 push bikes

- 3 large tents and associated camping equipment
- Ladder
- Paint and ancillary decorating equipment for domestic use
- Winter storage for garden furniture
- Winter storage for barbeque
- 2 lawn mowers
- Lawn scarifier
- Gardening equipment

It is noted that there are currently outbuildings to the side of the host property which prevents vehicles reaching the application outbuilding. However, the amended plans show these existing outbuildings are to be demolished to make way for a driveway. Following that clarification being obtained it is considered that this list of domestic contents and hobby usage could be reasonably required for purposed incidental to the enjoyment of the dwellinghouse having regard to how that test is explained within the technical guidance that accompanies the GDPO. Furthermore as it has been established that the proposed development complies with the other class E criteria it is considered that the tests for this being a form of permitted development are met meaning that the recommendation is one of approval accordingly.

Recommendation

Grant