

Bruce Lodge
Pilley Hills, Tankersley, S75 3AU

Additional Submission

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**ADDITIONAL SUBMISSIONS IN RESPECT OF AN ACTIVE APPLICATION FOR A LAWFUL
DEVELOPMENT CERTIFICATE FOR THE ERECTION OF A DETACHED OUTBUILDING**

AT: BRUCE LODGE, PILLEY HILLS, TANKERSLEY, S75 3AU

Prepared on behalf of

Mrs Carey Sizer-Coy

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CONTENTS

1	INTRODUCTION	4
1.1	Application Submission.....	4
1.2	The Proposed Development	5
1.3	Local Authority Response	6
2	THE APPLICANT’S NEED.....	7
3	THE EXPRESS CONSENT OF THE ORDER.....	9
3.2	Incidental Use	9
3.3	Class E	10
4	PHYSICAL RELATIONSHIP TO THE PARENT DWELLING	12
5	FUTURE CONVERSION.....	12
5.2	Conversion to Ancillary Building.....	12
5.3	Conversion to Separate Planning Unit.....	13
6	CONCLUSION	13

1 INTRODUCTION

1.1 Application Submission

1.1.1 This Statement has been prepared by Crowley Associates on behalf of Carey Sizer-Coy (“the Applicant”) and relates to an application in accordance with Section 192 of the Town and Country Planning Act 1990 for a Certificate of Lawful Development.

1.1.2 This statement relates to the active planning application reference 2023/0387 which was submitted to Barnsley Metropolitan Borough Council (“the Local Authority”) and made valid on the 19th of April 2023. The description of development registered is as follows:

Erection of detached outbuilding (Application for a Lawful Development Certificate for a Proposed Development)

1.1.3 The Applicant seeks a certificate of lawfulness for the erection of an outbuilding (the “building”) within the curtilage of their property at Bruce Lodge, Pilley Hills, Pilley, Barnsley, S75 3AU. The building has been designed to remain within the parameters set out under Class E of Part 1 to Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) (“the Order”).

1.1.4 The application submission comprised the following, plans and documents:

- Forms 1APP
- Location Plan
- Proposed Site Plan including Topographical Survey
- Proposed Cross Section
- Proposed Elevation
- Proposed Ground Floor Plan
- Proposed Roof Plan
- Supplementary Statement

1.1.5 This additional submission has been prepared on behalf of the Applicant in response to comments received from the Local Authority, set out in an email addressed to the Applicant and sent on 28 May 2023 at 15:24 (the “email”).

1.1.6 The Applicant felt it would be appropriate to prepare a response to address the points raised in the email and to clear up any misunderstanding. The email is set out in Appendix A of this document.

1.2 The Proposed Development

1.2.1 The building comprises a single storey structure located within the curtilage of the existing dwelling (“Bruce Lodge”). The building has been designed to provide essential facilities for the Applicant’s daughter, [REDACTED]
[REDACTED] It should be noted that Bruce Lodge is the primary residence of the Applicant and their daughter.

1.2.2 The building includes several rooms, each of which serve a specialist function and are intended for the sole benefit of the Applicant’s daughter. The rooms include the following:

- Art studio
- Crafting workshop
- Store
- Sensory room
- Gym and soft play area
- Pool room with disabled changing room

1.2.3 Further information regarding these individual spaces is provided in Section 2. However, it should be stressed that the building is to be used for purposes incidental to the enjoyment of the dwellinghouse (Bruce Lodge). None of the individual rooms / spaces are intended to be used as a primary habitable living space and will instead have a highly specialist function.

1.3 Local Authority Response

1.3.1 The Local Authority has been unable to determine the application due to a lack of information provided within the submission – as set out within the email.

1.3.2 The Local Authority's concerns are centred on:

- Matters of scale; and
- Need

1.3.3 From their analysis of the email, the Applicant has deduced that the Local Authority considers the following matters material to their judgement on whether the proposal can be considered lawful under the provisions of the Order:

- Whether the building can be considered necessary for purposes incidental to the enjoyment of the dwelling.
- The scale (footprint) of the building and whether it can be considered incidental.
- The physical relationship between the building and Bruce Lodge.
- The prospect of the building being converted at a later date into separate living accommodation or split from the planning unit entirely.

1.3.4 The Local Authority does not dispute the following:

- That the building would be located within the curtilage of Bruce Lodge;
- That the dimensions by way of height to ridge, height to eaves, footprint (not exceeding 50% of the area of the curtilage), of the building are within the confines of the Order; and
- That the building is located behind the principal elevation of the dwelling.

2 THE APPLICANT'S NEED

2.1.1 The following section provides a summary of the Applicants 'need', (detailing the Applicant's daughter's specialist requirements) and how the building will cater for these.

2.1.2 The Applicant's daughter has [REDACTED] and requires full-time care from the Applicant and their wider family. The building is intended to provide facilities specific to their requirements. For clarity, the Applicant's full account of their daughter's condition and their specific needs is attached at Appendix B.

2.1.3 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

2.1.4 Given the severity of their condition, they require around-the-clock care which is currently provided by the Applicant and a team of specialist carers. They can never be left alone.

2.1.5 Due to their complex medical needs, it is vital that the Applicant's daughter has access to physical and mental stimulation in order to ensure they can lead a rewarding life. A letter has been provided by the Service Manager at Opening Doors (in association with Green Acre School) – addressed later - which is attached at Appendix C and states:

For [REDACTED] to benefit from a range of physical exercises, they need to take place regularly, ideally daily. This, in addition to being challenging and mentally stimulating would assist [REDACTED] greatly in strengthening current muscle wastage in [their] legs, with personal benefits to be gained with [their] walking abilities, posture and gait.

2.1.6 Alongside the benefits of regular physical exercise, it is important for the Applicant's daughter's mental health, that they have access to relaxation, creative and sensory spaces. The accompanying letter goes on to state:

Alongside the physical recreational spaces and activities there is also the inclusion of relaxation, therapy and creative spaces. These too would add to the diverse range of facilities available to [redacted], and in addition to [their] own well-being enhanced by these, it would provide [redacted] parents the opportunity to spend daily time with [their] in these spaces, and thereby enhance their own physical and mental well-being.¹

- 2.1.7 Bruce Lodge, was purchased in 2012 by the Applicant and their family who immediately undertook a full renovation, including the implementation of an extension to bring the property up to a standard that their daughter could safely live in. The renovation has ensured that the ground floor is fully open-plan without doors or radiators (safety hazards), and includes a purposely designed suite of rooms at first floor level, that allow the Applicant to have adjoining bedrooms in case of an emergency. The garden courtyard to the rear of the dwelling has also been relandscaped to provide a large flat lawn and patio area, alongside a gentle slope that allows for safe access to the woodlands to the north of the site.
- 2.1.8 The Applicant's daughter attended Green Acre School and College until the age of 22, where they had access to physiotherapy and gym equipment alongside a pool, all of which are recommended on a regular basis to help with their stamina and muscle strength. At these facilities they also took part in weekly rebound therapy (trampolining) and had access to a tricycle and walker. They also benefited from regular attendance at a drama class and other creative/ sensory classes that stimulate them mentally.
- 2.1.9 According to the Applicant, *after leaving Green Acre School & College at 22 [their daughter has] attended Opening Doors (a subsidiary of Green Acres for young adults with complex needs) three days per week. However, this is sited separately, close to Barnsley town centre and does not have immediate access to the specialist sports/physio facilities at the Greenacre School & College.*
- 2.1.10 There had previously been another highly specialist centre attended by the Applicant's daughter (Keresforth Centre), which closed in 2017.

¹ Appendix C – Letter from Opening Doors Service Manager

- 2.1.11 The lack of facilities within the Opening Doors centre and the loss of the Keresforth Centre has meant that the daughter’s access to stimulation and rehabilitation is now extremely limited.
- 2.1.12 As their full-time carer, the Applicant has considered a number of options and has settled on providing the essential facilities within the curtilage of their home, to allow their daughter to live the most rewarding life.
- 2.1.13 In summary, the building has been carefully thought out to ensure that the Applicant’s daughter is both physically and mentally stimulated as well as being safe at all times. Due to the current lack of SEN adult facilities in the Barnsley area, the Applicant has no choice but to provide these facilities at home.

3 THE EXPRESS CONSENT OF THE ORDER

- 3.1.1 The Order defines the express consent which applies to the erection of outbuildings (which are to be put to use for purposes incidental to the enjoyment of a dwellinghouse).

3.2 Incidental Use

- 3.2.1 Class E of the Order states:

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;

- 3.2.2 The Order grants express consent for the construction of buildings to be put to use for purposes *incidental to the enjoyment of [a] dwellinghouse*, provided that the building adheres to certain criteria.
- 3.2.3 The incidental nature of said building refers to the building’s use, which should be considered parasitic to the primary use of the host dwelling. To this extent, an incidental use can be considered any use that cannot exist without the parent dwelling and that will not materially extend the normal living accommodation.

3.2.4 The Guidance clarifies:

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.

3.2.5 The building is to be put to use for purposes that are entirely incidental to the enjoyment of the dwelling, it will not contain any self-contained accommodation, bedroom, bathroom or kitchen, and will not be able to function without the existence (and occupation) of the dwelling.

3.3 Class E

3.3.1 Sub-paragraph E. 1(a) of the Order states that buildings etc incidental to the enjoyment of a dwellinghouse constitute permitted development unless:

(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)

3.3.2 The Applicant can confirm that the dwelling has not been granted permission by means of the above.

3.3.3 Sub-paragraph E.1(b) of the Order states that development is not permitted where:

(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)

3.3.4 Even taking into account additional development at the site (including by way of extension to the original dwelling and the erection of outbuildings) the total area of ground covered by buildings, other than the original dwellinghouse, will be approximately 465.9 sqm which amounts to approximately 9.5% of the total area of the curtilage (which, excluding the original dwelling is approximately 6,744 sqm).

3.3.5 As such, the requirements of sub-paragraph E.1(b) will not be exceeded.

3.3.6 Sub-paragraphs E.1 (c) to E.1 (f) state:

(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;

3.3.7 The building is not sited forward of the principal elevation of Bruce Lodge ('original dwellinghouse'). It comprises a single storey structure with a dual-pitched roof which does not exceed 4 metres in height nor will the height to eaves exceed 2.5 metres in height from ground level.

3.3.8 The Technical Guidance² states that height *should be measured from ground level*; however, if the ground is not uniform, *the ground level* [from which the height is measured] *is the highest part of the surface of the ground next to the building*. In this instance the ground is not uniform, and the height is measured from the 'highest part of the surface of the ground next to the building', and in this location the extension will not exceed 4 metres in height (to ridge). No part of the building will be situated within 2 metres of the boundary of the curtilage to Bruce Lodge.

3.3.9 According to Sub-paragraphs E.1(g), (h), (i), (j) and (K), development under Class E is not permitted where:

(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;

² Householders Technical Guidance, Page 6

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

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

(k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)

3.3.10 None of the subsections above apply to the building proposed under Class E. As such the building is compliant with Class E.1 of the Order.

4 PHYSICAL RELATIONSHIP TO THE PARENT DWELLING

4.1.1 The Local Authority has expressed concerns over the *proximity* (siting) of the building and its *physical relationship to the host dwelling*. Our interpretation of the Local Authority's position is that the distance between the two buildings may prevent the building from being read as a Class E compliant building.

4.1.2 It should be noted that such an assessment is irrelevant for the purposes of the Order. A degree of separation from the existing dwelling, such as that which is proposed, is not uncommon for Class E outbuildings.

4.1.3 The positioning of the building has been dictated by the topography of the site and the presence of a number of mature trees (including trees protected by a TPO); the building has been sited as close to Bruce Lodge as the topography permits.

5 FUTURE CONVERSION

5.1.1 The Local Authority has also expressed its concern at the potential for the building to be converted (at a later date) into ancillary accommodation; or into a separate planning unit. Neither of these matters are material to determining whether the building is lawful.

5.2 Conversion to Ancillary Building

5.2.1 The Local Authority is concerned that the building could be converted to ancillary accommodation.

5.2.2 To stress, the building has been designed to suit the needs of the Applicant (and their daughter) whilst remaining wholly within the confines of what can be considered permitted development under Class E of the Order. The building will not be used as ancillary accommodation.

5.3 Conversion to Separate Planning Unit

5.3.1 The Local Authority has also expressed concern that the building could be converted into a separate planning unit in the future.

5.3.2 It is important to note that the application is for a Certificate of Lawful Development and that it would be wholly inappropriate and prejudicial for the Local Authority to weigh in the balance an application which has not been submitted (that of a new dwelling). Nevertheless, in the event the building was put to use for purposes other than those classed as being incidental to the enjoyment of Bruce Lodge, the Local Authority would have the option to pursue matters separately in accordance with the provisions of the Town and Country Planning Act 1990, with a view to considering matters on their face at that point in time.

6 CONCLUSION

6.1.1 The Local Authority has expressed its concern that the original submission lacked the justification expected in the application for a Certificate of Lawfulness to determine whether the proposed development is in fact lawful. The Local Authority has also raised concerns in regard to the *scale, size, purpose and positioning of the outbuilding* and whether this could be *considered to be incidental*.

6.1.2 As clarified throughout this document, the use / uses of the building are solely for the benefit of the Applicant's daughter, and are as such, entirely for purposes incidental to the enjoyment of Bruce Lodge. The *scale* of the building is driven by the unique condition and particular vulnerabilities of the Applicant's daughter, which means that larger, open-plan spaces are safer and more suitable for their needs.

6.1.3 Regardless, the proposed design fits entirely within the parameters set out within Class E of Part 1 of Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) and as such can be considered lawful.

APPENDIX A LOCAL AUTHORITY CORRESPONDENCE

Local Authority Ref: **2023/0387**

Application for a Lawful Development Certificate for the:

Erection of detached outbuilding

At: Bruce Lodge, Pilley Hills, Barnsley, S75 3AU

From: **Denman , Nathan (PLANNING OFFICER)** <NathanDenman1@barnsley.gov.uk>

Date: Sun, 28 May 2023 at 15:24

Subject: 2023/0387 - Bruce Lodge, Pilley

To: [REDACTED]

Hello [REDACTED]

It was good to meet you a few weeks ago on site and apologies about not being able to get you some feedback on the application until now. I am working a bit of overtime today and time is ticking on this application, so I wanted to get our initial thoughts on the application over to you. I have managed to take a look through the plans and have a read through the supporting statement submitted as part of the application. It would be good to have a chat over a few things when I return next week, but my initial assessment of the application is as follows.

A Lawful Development Certificate requires us to take an assessment of the submitted evidence against the General Permitted Development Order (GPDO) which allows for the erection of domestic outbuilding which are incidental to the host dwelling subject to some restrictions in relation to the size, heights and locations within the domestic curtilage. These are, in most cases, generally straightforward to assess as they are fact/numerical-based and are easy to quantify. However, Class E.4 of the GPDO requires domestic outbuildings to be ancillary to the host dwelling in terms of its use/purpose, and other things such as the proximity to the host dwelling, alongside the outbuilding's scale in comparison to the host dwelling. In this case, it has been explained in the proposed outbuilding is largely for the use of [REDACTED] which has been outlined in the planning statement. It's not my sole intention on getting into a debate regarding what [REDACTED] requires but rather we would need to assess whether the scale, size, purpose, and positioning of the outbuilding can indeed be considered to be incidental to the host dwelling or not.

Given that this is a lawful development certificate, we have a requirement to consult our Legal Officer who has provided some input on the application based largely on previous case law relating to Class E outbuildings. Such case law has determined whether or not a proposed use is 'incidental' is fundamentally a 'question of fact and degree' to be determined by the planning decision maker adopting an 'objective' approach.

The initial assessment of the outbuilding would be that it is extremely large for a domestic outbuilding. Based on footprint, it measures 285.5sqm which is larger than the footprint of the host dwelling (150sqm), and a similar size to the host dwelling plus the existing outbuildings on site (total footprint size of 325sqm). It doesn't have a very close physical relationship to the host dwelling – with a separation distance of c.30m at its nearest. The internal layout is split into several independent rooms which could fairly easily be converted at a later date into separate living accommodation. Likewise, the building in general could be split away from the main property fairly easily to form an independent unit/plot. The site is in the green belt where the erection of new buildings/dwellings is inappropriate development unless there are very special circumstances and taking a long-term perspective, the scale of the outbuilding and its potential for future convertibility would be a concern something which the Council must consider.

There is no section within the planning statement which specifically refers to part E.4 of the GPDO relating to the building being incidental to the host dwelling, and how the outbuilding meets this

criterion. I feel initially we would need some further information on why the outbuilding needs to be this big, who will be using the facilities (i.e. would it be [REDACTED] alongside outside carers, would friends/family use it also, etc.) and, as discussed on site, some evidence of [REDACTED] medical history/background. The latter will of course remain confidential. I can then take this additional information and have a conversation with the Legal Officer to look at determining the application.

Again, sorry to send you an email like this over the Bank Holiday weekend and we can have a chat next week when I return.

Regards,

Nathan Denman

Planning Officer (Inner Team)

Planning and Building Control

Barnsley Metropolitan Borough Council

Nathandenman1@barnsley.gov.uk

01226 772589

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APPENDIX B APPLICANT QUESTIONNAIRE

Local Authority Ref: **2023/0387**

Application for a Lawful Development Certificate for the:

Erection of detached outbuilding

At: Bruce Lodge, Pilley Hills, Barnsley, S75 3AU

Question

How long have you lived at Bruce Lodge?

Have you ever considered moving from Bruce Lodge in order to accommodate Emily's needs?

Answer

We purchased BL in 2012, and after a full renovation, including a 100% extension moved into the property just prior to Christmas 2014. No we have not. We moved to BL owing to the opportunities it afforded us as a family, and particularly to accommodate [REDACTED] needs owing to her level of disability. We were already part owners of 20 acres of woodland that adjoins BL. We've owned Green Spring Woods for over 20 years, and at the time, the only access to BL was on a track that we already owned as a second to the woods.

To accommodate [REDACTED] needs the house was designed so that the downstairs is now fully open plan without doors, except for the wet room and toilet, utility room and small study. With no radiators, but underfloor heating [REDACTED]

[REDACTED] Being a Victorian Hunting Lodge BL originally comprised of three small rooms downstairs and three upstairs. The largest being 12ft square and the two smallest rooms, both upstairs and downstairs both being 8ft x 12ft.

In increasing the overall size of the BL the floor space upstairs allowed us to design a purpose built suite of rooms, accessed from the hallway by one door. There is our main bedroom, with an adjoining bedroom (for Emily), plus an open plan dressing area and an en-suite bathroom, with both bath and shower facilities.

[REDACTED] This layout ensures [REDACTED] only access is directly into our bedroom, next to the side of our bed., plus this means we are on hand immediately when [REDACTED] we hear her get out of her bed.

Outside of the bifold doors in the lounge downstairs we had the area significantly landscaped to create a large flat lawn, with a shallow slope that leads into the east side of our woods (gated). [REDACTED] can access easily with our supervision. Prior to it being levelled and turfed it was inclined and very overgrown, and inaccessible. We also created a walled flat patio area, access from both the utility and kitchen doors which [REDACTED] is able to make use of, again with supervision. This area too is gated to ensure safety. Upstairs there are also 2 guest bedrooms and a main bathroom, which are used regularly by family and friends when they come to visit. However, all 3 rooms are too small to accommodate a specialist space with facilities for [REDACTED] needs, and none adjoin so that one larger space could be designed.

So that [REDACTED] can enjoy access and travel through the woods, we have a four seater buggy. However, she does enjoy taking small walks on the track with aid.

When we purchased BL with a substantial plot of land, we hoped that when our funds permitted that in addition to landscaping we would

[REDACTED]

[REDACTED]

The proposed outbuilding includes several facilities (hydrotherapy pool room, sensory room, art studio, crafting workshop and gym with soft play area). Would you be able to elaborate on:

* The above answer is linked to the previous one.
I would like to add that the size of the proposed gym area (something which Nathan, planning officer commented upon) is to also accommodate [REDACTED] using her walker, and riding a specialist tricycle. These allow her a sense of independence, which she enjoys tremendously. Plus these 2 activities also greatly assist in helping

APPENDIX C LETTER FROM OPENING DOORS SERVICE MANAGER

Local Authority Ref: **2023/0387**

Application for a Lawful Development Certificate for the:

Erection of detached outbuilding

At: Bruce Lodge, Pilley Hills, Barnsley, S75 3AU

To whom it may concern,

I am writing this letter in support of [REDACTED] parents, Michael and Carey in their recent application for an incidental, detached building which they wish to erect within the grounds of their property.

I understand the proposed building is intended to provide several types of specialist spaces and facilities for [REDACTED] so that she, with the support of her parents, and her other carers can maximise safe access and use of these facilities, and most importantly, provide her with a diverse variety of both physical and mental stimulus.

Working with severely disabled adults with complexed needs, I am fully aware of the full-time care and support an individual, such as [REDACTED] requires. I know [REDACTED] personally through my contact with her at Greenacre Special School and latterly as a client of Opening Doors a community Interest company established as an annexe of Greenacre several years ago. There are many constraints on parents, and carers as to where and how often they are able to gain access to a range of specialist facilities and resources. This indeed has been further compounded by the closure of specialist facilities for disabled youngsters and adults in the Barnsley area.

For [REDACTED] to benefit from a range of physical exercises, they need to take place regularly, ideally daily. This, in addition to being challenging and mentally stimulating would assist [REDACTED] greatly in strengthening current [REDACTED], with personal benefits to be gained with her [REDACTED]

Alongside the physical recreational spaces and activities there is also the inclusion of relaxation, therapy and creative spaces. These too would add to the diverse range of facilities available to [REDACTED] and in addition to her own well-being enhanced by these, it would provide [REDACTED] parents the opportunity to spend daily time with her in these spaces, and thereby enhance their own physical and mental well-being.

Kind regards

Lynsey Bloomer
Service Manager