

## Planning Statement

This statement is in support of an application for a certificate of lawfulness for a store, games area and hobby workshop in the rear garden of 4 Burton Crescent, Monk Bretton, Barnsley.

The proposal is to construct a single storey building to be used for purposes incidental to the enjoyment of the dwelling house.

This will include storage of equipment and games facilities for the Applicant's Grandchildren. The Applicant has been previously advised by the Planning Officer that it would be helpful if the application included a list of items to be stored and used within the building.

The items that require secure storage include, jet washer, 12 ft ladders, 2 pairs of step ladders, wheelbarrow, petrol lawn mower, 2 suitcases, patio table, 6 patio chairs, rattan patio set to include 2 patio chairs and double seat, small workbench, cement mixer, grass trimmer, 12 storage boxes, wooden garden bench, shelving units, numerous hand tools, various tins of paint and stains etc various children's toys, and small bikes, items for the games and leisure area will include pool table, table tennis table, exercise bike and treadmill along with small exercise equipment.

Planning permission is only needed if the work being carried out meets the statutory definition of 'development' which is set out in section 55 of the Town and Country Planning Act 1990.

'Development' includes:

- building operations (eg structural alterations, construction, rebuilding, most demolition);
- material changes of use of land and buildings;
- engineering operations (eg groundworks);
- mining operations;
- other operations normally undertaken by a person carrying on a business as a builder.
- subdivision of a building (including any part of it) used as a dwellinghouse for use as 2 or more separate dwelling houses

Development does not in all instances require a planning application to be made for permission to carry out the development. In some cases development will be permitted under national permitted development rights.

The Applicant wishes to receive a formal confirmation of this, and an application for a certificate of lawful development is to be submitted to the local planning authority.

To be granted a Certificate of lawfulness the proposal must meet the following requirements to be Permitted development

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

Definition of “building”—

(a) includes any structure or erection and, except in Class F of Part 2, Class B of Part 11, Classes A to I of Part 14, Classes A, B and C of Part 16 and Class T of Part 19, of Schedule 2, includes any part of a building;

Interpretation of Class E

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.

### Outbuildings

Outbuildings are considered to be permitted development, not requiring an application for planning permission, provided all the conditions are met.

1. On designated land\* outbuildings to the side of the house are not permitted development.

\* Designated land includes national parks and the Broads, Areas of Outstanding Natural Beauty, conservation areas and World Heritage Sites.

2. Outbuildings are not permitted development within the grounds of a listed building.

3. In national parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites the total area to be covered by any outbuildings more than 20 metres from ANY WALL of the house must not exceed 10 square metres to be permitted development.

4. Outbuildings are not permitted development forward of the principal elevation of the original house. The term original house means the house as it was first built or as it stood on 1 July 1948 (if it was built before that date).

5. Outbuildings and other additions must not exceed 50% of the total area of land around the original house. Sheds and all other outbuildings(see intro) and extensions to the original house must be included when calculating this 50% limit.

6. To be permitted development, any new building must not itself be separate, self-contained, living accommodation and must not have a microwave antenna.

7. Outbuildings must be single storey with a maximum eaves height of 2.5 metres and maximum overall height of 4 metres with a dual pitched roof, or 3 metres in any other case.

8. If the outbuilding is within 2 metres of the property boundary the whole building should not exceed 2.5 metres in height.
9. Balconies and verandas are not permitted development. Raised platforms such as decking are permitted development provided they are no higher than 300mm
10. Containers, such as those used for domestic heating purposes, must not exceed 3,500 litres capacity to be permitted development. The other permitted development conditions which apply to outbuildings listed above also apply to containers.

The proposals meet all relevant conditions to be Permitted Development.

Planning Officers, in pre-applications discussions, have indicated that the excavation to facilitate the construction of the small outbuilding constitutes 'engineering' works.

The Applicant has been advised that Planners have sought legal advice on this, however no written confirmation has been required.

This issue is potentially the only matter that could prejudice the granting of a Certificate of Lawfulness.

The submitted drawing shows the proposed building adjacent the rear boundary. This is where the greatest excavation will be required.

The submitted drawing shows the proposed building adjacent to the rear boundary with the adjacent land level a maximum 780mm above the proposed finished floor level.

To facilitate the new building a maximum depth of 300mm of material will be excavated and removed from the site.

This is not considered to be a separate activity of substance, it is incidental to the construction of the building and that there isn't a significant land level difference.

The building will abut an existing retaining wall, the top of which is 780mm above the proposed finished floor level. To facilitate the new building a maximum depth of 300mm of material will be excavated & removed from the site.

This is not considered to constitute engineering works and is required to facilitate the works.

We note that a recent application for a Certificate of Lawfulness to Barnsley MBC ref no 2019/1348 has been granted. This was for a much larger building than the one proposed with adjacent land level of 0.9 metres above. This will require significant excavation on three sides of the proposed building. In this instance, the Case Officer, consulted the Legal Department.

Their legal view was that it appeared to fall under class e of part 1 of the GPDO.,

Further, there is a possibility that the excavation works to facilitate the building could be considered as a separate activity of substance.

The planning officer concluded “however the plans indicate that there isn’t a significant land level difference where the building will be located and so it would be difficult to defend a refusal on these grounds at an Appeal.”

In both cases the level difference is measured against the proposed finished floor levels as similar excavation for foundations will be required in each case.

It must therefore be acknowledged that the minimal excavation required does not constitute a separate activity of substance and is incidental to the construction of the building.