

Recommendation Report for Lawful Development Certificate for a Proposed Use or Development

REF NO: EP/18/26/CLP

LOCATION: 94 North Lane
East Preston
BN16 1HE

PROPOSAL: Lawful development certificate for a proposed single storey rear garden outbuilding.

DESCRIPTION OF APPLICATION

This application seeks a Lawful Development Certificate for a proposed single storey rear garden outbuilding.

RELEVANT SITE HISTORY

EP/109/25/HH	Proposed loft conversion, first floor rear extension and alterations to fenestration.	ApproveConditionally 23-12-25
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REPRESENTATIONS

Representations Received:

CONSULTATIONS

Consultations Responses Received:

LEGISLATIVE BACKGROUND

Section 192(2) of the Town and Country Planning Act 1990 states:-

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

In this instance the proposed works will be assessed against the Town and Country Planning (General

Permitted Development) (England) Order 2015 as amended.

- Class E, which pertains to the buildings etc incidental to the enjoyment of a dwellinghouse.

Provided the proposed works satisfy the relevant criteria, and that no restrictive conditions to development have been imposed on the site, the proposed works will constitute Permitted Development and would not require planning permission. If the works fail to accord with the criteria then planning permission will be required for them to take place.

CONCLUSION

The proposed single storey rear garden outbuilding falls to be assessed under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

Permitted development

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.

Development not permitted

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 G, M, MA, N, P, PA 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 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;

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

In *Christoforou Family v the Council of London Borough of Barnet* (March 2020), it was ruled that the nature of the activities carried out in the proposed outbuilding ensured they were incidental or conducive to the very condition of living in the dwellinghouse. The Inspector went on to state the proposed outbuilding would be single storey in contrast to the two/three storey original dwelling and whilst generous in footprint the proposal was not unduly excessive, given the proposed uses and items intended to be stored within the proposed outbuilding.

Similarly, in *Stanworth v Malvern District Council* (May 2020), it was ruled that it was not a test of whether the large size of the building would look out of proportion with the modest outbuildings in the gardens of nearby dwellings. But that it was whether it is required for an incidental activity. The Inspector allowed the appeal on the grounds that on the balance of probabilities the building would be required for a purpose incidental to the enjoyment of the dwellinghouse as such, and that the building would be permitted under Class E.

Additionally, in *Hatson v Blaby District Council* (October 2023) the Inspector acknowledged the large size of the proposed outbuilding (depth of 20.5m) however, the appellant had submitted a proposed layout and supporting statements confirming the incidental use to the enjoyment of the host dwelling. They went on to refer to judgement *Emin v SSE and Mid-Sussex District Council* (1989) 58 P & CR 416, which established for the purposes of applying Class E the term 'required' should be interpreted as 'reasonably required' rather than the 'unrestrained whim' of the occupier. Also, with regard to the nature and scale of the activities to be carried on, the size of a proposed building can be an important consideration although not conclusive by itself. The Inspector also observed that there is no specific size limit for outbuildings relative to the host dwelling within the GPDO, nor that there is any information in case law that suggests a building cannot be incidental when the footprint is greater in size than the host dwelling. Therefore, the Inspector concluded that the use of the outbuilding was incidental to the enjoyment of the dwellinghouse, and the large size was reasonably required.

Furthermore, in *Addams v Knowsley Metropolitan Borough Council* (November 2025) the Inspector defined incidental use as one which is functionally related to the primary use of the property and the test to be applied is whether the uses of the proposed building, when considered in the context of the 'planning unit', were intended and would remain ancillary or subordinate to the main use of the property as a dwellinghouse. Size may be an important consideration but it is not by itself conclusive. The Council's sole reason for refusing the application was that it would not 'be genuinely subordinate and reasonably required for purposes incidental to the enjoyment of the dwellinghouse'. However, the Inspector concluded even though the proposed single storey outbuilding (188m²) was relatively large, the appellant had made it clear in his appeal statement that the outbuilding would only ever be used for domestic purposes relating to the residential dwelling and included proposed plans showing the layout of the outbuilding. For these reasons the Inspector determined the proposed outbuilding would be permitted development and would therefore be lawful.

During the course of this application, the applicant submitted additional information as to the requirements of the proposed garden outbuilding, including the various hobbies that the garden outbuilding would facilitate for the occupiers of the host dwelling. Consequently, it is reasonable to conclude that the proposed single storey rear garden outbuilding, to include a games room/future gym, store, cinema room and workshop, would be for the purposes of additional facilities for the enjoyment of the dwellinghouse as such, and that the outbuilding would be permitted under Class E.

The property known 94 North Lane is a semi-detached property and is not listed or within a Conservation Area.

There are no permitted development restrictions upon this property.

The proposed single storey rear garden outbuilding complies with relevant sections of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015. The proposed development is therefore permitted development and as such does not require the submission of an application for full planning permission.

RECOMMENDATION

PP NOT REQUIRED

The Arun District Council hereby certify that on 23 February 2026 the development described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged in black on the plan attached to this certificate, would have been lawful within the meaning of Section 192 of the Town & Country Planning Act 1990 by reason of compliance with the relevant criteria within Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015.

FIRST SCHEDULE

The proposed outbuilding as shown on the following submitted plans:

- Location and Block Plans 250039/01 Rev A.
- Proposed Floor Plan 250039/02 Rev A.
- Proposed Elevations 250039/03 Rev A.

SECOND SCHEDULE

94 North Lane, East Preston, BN16 1HE.

EXTENT OF USE

The proposed single storey rear garden outbuilding measuring 13.2m at its widest point, 17.8m at its deepest point and 2.5m high.

EP/18/26/CLP - Indicative Location Plan (Do not Scale or Copy)
(All plans face north unless otherwise indicated with a north point)



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