

Delegated Report

Planning Reference: 25/00664/CLP

Applicant(s): Mr Taylor

Ward: Burbage, Sketchley and Stretton



Hinckley & Bosworth
Borough Council

Application Site: Corner House, 1A Boyslade Road East, Burbage

Proposal: Certificate of proposed lawful development for the erection of a single-storey garage/storage outbuilding.

Case Officer: Gwion Russell (Planning Officer)

Recommendations

1.1. Grant Certificate of Lawful Proposed Development

2. Planning Application Description

- 2.1. This application seeks to obtain a certificate of lawful development for a single-storey garage/storage outbuilding, specifically intended for the secure storage of classic cars. The existing integral garage is insufficient in size making it unsuitable for accommodating the applicant's vehicles or workshop needs. The development is proposed at Corner House, 1A Boyslade Road East, Burbage.
- 2.2. The proposed garage would measure 10125mm in width and 7425mm in depth. It would comprise a dual-pitched roof form, with a maximum ridge height of 4m metres and an eaves height of 2.5m.
- 2.3. To support with access arrangements to the proposed garage, an area of loose stone permeable hardstanding is proposed at the western elevation of the dwelling, which incorporates the existing driveway at the property frontage. The agent has confirmed that the proposed loose stone hardstanding and the arrangement of access is not to be assessed within this application.
- 2.4. Additional alterations include the addition of a side access door and a 3.5m wide window at the side elevation of the outbuilding and two 6m wide garage doors at the frontage of the outbuilding, which face the highway (Boyslade Road).

3. Description of the Site and the Surrounding Area

- 3.1. The application site relates to a detached residential 1.5 storey dwelling within the settlement boundary of Burbage. The dwelling features a red brick base/detailing and cream rendering and has an existing integrated garage to its eastern elevation. The dwelling is not listed nor is situated within a conservation area, but is situated on an acute corner linking Boyslade Road to Boyslade Road East, screened by

various deciduous trees. Both Boyslade Road and Boyslade Road East are residential in nature.

4. Relevant Planning History

- 22/00888/OUT
 - Erection of a single dwelling (outline access to be considered only)
 - Withdrawn
 - 22.11.2022
- 24/00694/FUL
 - Construction of a self-build dwelling with solar panels and access
 - Withdrawn
 - 12.09.2024

5. Publicity

- 5.1. Not required for this type of application.

6. Consultation

- 6.1. Not required for this type of application.

7. Policy

- 7.1. Section 192 of the Town and Country Planning Act 1990.
- 7.2. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

8. Appraisal

- 8.1. The main consideration for determination of this proposal is whether the proposed development falls within permitted development rights as set out under The Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended) Schedule 2, Part 1, Class E.

- 8.2. Class E covers:

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.

Incidental Test:

The use of the building, enclosure, pool or container must be incidental to the enjoyment of the dwellinghouse.

The applicant has stated that the proposed garage is intended for the secure storage of classic cars and use as a workshop by the applicant. Due to limited space and alternative uses within the existing integrated garage, the new structure is necessary to accommodate vehicles and equipment safely.

Appeal decisions relating to similar incidental uses are mixed and highlight the need to assess a scheme on its own merits. One of the leading cases in this regard is the Emin [Emin v SSE & Mid Sussex DC [1989] JPL 909] judgement where it was found that an outbuilding must be 'required for some incidental purpose' to be permitted development under Class E of the GPDO. The size of the building, including in comparison to the host dwelling, may be an important consideration, but size alone is not conclusive. It is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwellinghouse, and whether the building is genuinely and reasonably required to accommodate the use and thus achieve that purpose.

In isolation, the activities for which the outbuilding would be put to use could all generally reasonably be regarded as being subordinate to and connected with the running of the dwelling and as such, incidental to its enjoyment. However, when assessing the application the material planning history which includes recent planning applications for a new build dwelling on a similar site to the proposed dwelling clearly weighs against the applicants and their genuine requirement for a garage as proposed. Therefore, further justification was requested and a justification statement has been provided by the agent in support of the application:

1. *"The sole purpose of the Garage is for the storage of 2 owned Classic Cars with a view of obtaining a potential 3rd classic car in the future.*
2. *The retired applicant would be using the space as a workshop as well as safe storage for the cars and equipment required.*
3. *Th existing integral garage is currently being used for storage such as bikes, garden furniture, lawnmowers, part plant room and part access to the 1st floor accommodation, therefore existing garage space for cars is not adequate or for anymore storage space equally.*
4. *The applicant does have plans to convert the existing integral garage to create a more open plan entrance to the house with internal house storage, as the current access to the house is very small and narrow. I appreciate this has not been implemented at the time of writing but with their plans for the proposed structure would come into use for storage for items that are currently in the integral garage.*
5. *There are 3 children living at the property who also have cars, so at one time there could be 6 cars in total including the applicants, and another additional 2 classic cars would be difficult to manage within the curtilage of the current gravel parking area.*
6. *The applicant had their car stolen the other year and it is paramount that a built structure is provided to give a safe place to store the cars.*
7. *In terms of access there is sufficient space for the classic cars to the western side of the house to gain access to the proposed structure and be stored away inside so the classic cars are safe and secure.*

8. *The classic cars would not be parked in front of the proposed structure for security reasons and away from prying thieves, and automatic lockable garage doors would be utilised for ease of manoeuvring the cars in and out.*
9. *The applicant may seek to establish an access off Boyslade Road with a new dropped kerb in the near future (if planning is required) which would be more practical but due to the previous car being stolen from the family and the risk of direct access to the classic cars / potentially being stolen, this opens up opportunity for thieves.*
10. *There is Planning history on the land for a new dwelling, which applications were withdrawn and given that, its of the applicants interest to have a garage building for the applicants enjoyment for the use of classic cars.*
11. *The size of proposed structure is suitably sized and positioned for the outlined purpose above. The position is being considerate to other residents with maintaining good distance away from boundaries.*
12. *The height and position of structure is not impacting on any neighbours loss of light or overbearing, and the proposed is considerate to existing build lines”.*

In this case the existing integral garage would provide space for one vehicle only, there are more vehicles which are stored outside alongside the above mentioned classic cars. The garage is large but is not unjustified when considering a double garage would require an internal space of 6X6m. The garage includes a workshop and there are no other outbuildings within the curtilage which would otherwise provide this purpose.

In making an application for a Certificate it is the responsibility of the applicant to provide that the development would be lawful on the balance of probabilities. In this case, doubts are raised with regards to the planning history, however, sufficient evidence has subsequently been provided by the applicants that address this and the incidental nature of the use. This is considered sufficient that on the balance of probability the proposed building would be incidental to the enjoyment of the dwelling.

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);

Permission to use the dwellinghouse as a dwellinghouse has not been granted by Class M, N, P, PA or Q of Part 3 of this Schedule.

b) The total area of ground covered by buildings, enclosures, pools 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 would not exceed 50% of the property curtilage.

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 development would not be situated forward of the principal elevation – the property is located on a corner plot which has an unusual acute angle shape. The proposed development is located to the rear of the property, not in front of the principal elevation, and therefore is considered acceptable in terms of siting.

d) The building would have more than one storey;

The proposed building would be single storey, with a maximum ridge height of 4 metres.

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,
- (iii) 3 metres in any other case;

The proposed building complies with the relevant height restrictions and being proposed as a dual-pitched roof, does not exceed 4m in height from the base to the ridge.

f) The height of the eaves of the building would exceed 2.5 metres;

The proposed eaves height would not exceed 2.5 metres.

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

The site is not within the curtilage of a listed building.

h) It would include the construction or provision of a veranda, balcony or raised platform;

The proposal does not include a veranda, balcony or raised platform.

i) It relates to a dwellinghouse built under Part 20 of this Schedule (construction of new dwellinghouses);

The dwellinghouse was not built under Part 20 of this Schedule.

9. Equality Implications

9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:**
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;**
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;**

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3. There are no known equality implications arising directly from this development.
- 9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. Based on the submission the proposed extension would comply with the relevant provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

11. Recommendation

11.1. Grant Certificate of Proposed Lawful Development

- 11.2. The application has been determined with consideration to the following submitted documents:
 - Application form for a Certificate of Lawful Proposed Development received by the Local Planning Authority on 04/07/2025.
 - Proposed Site Plan - Drg. AVD-911-BRB-PL01 received by the Local Planning Authority on 04/07/2025.

12.1. Notes to applicant

- a) The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at building.control@blaby.gov.uk or call 0116 272 7533.