

Delegated Report

Planning Reference 26/00737/CLP
Applicant Mr Jamie Anderson
Ward Newbold Verdon with Desford & Peckleton



Hinckley & Bosworth
Borough Council

Application Site Kirkby Old Parks Farm, Kirkby Lane, Newbold Verdon

Proposal Certificate of Proposed Lawful Development for the erection of an outbuilding

Case Officer Sullivan Archer (Senior Planning Officer)

1. Recommendations

1.1. Refuse Certificate of Lawful Proposed Development

2. Planning Application Description

2.1. This application seeks a Certificate of Lawful Proposed Development to confirm that the erection of an outbuilding at Kirkby Old Parks Farm, Kirkby Lane, Newbold Verdon would represent lawful development.

2.2. The 276.1 square metre proposed outbuilding would externally measure 30.6 metres in width by a depth of 9 metres. The structure would be constructed with a four-metre-high and 18.5-metre-wide dual pitched roof, which has an eaves height of 2.4 metres, and two further 2.8-metre-high flat roofs on either side of the property. The outbuilding would include a 156.5 square metre swimming pool, a 35.7 square metre gym, a changing room, a shower room, a sauna, and a bar.

3. Description of the Site and the Surrounding Area

3.1. The application site is located to the east of Kirkby Lane's confluence with Brascote Lane and Newbold Road to the southeast of Newbold Verdon and to the southwest of Desford in the designated open countryside. The site is accessed via a 351-metre gated access track and forms part of the wider Kirkby Old Parks Farm complex, which is included within the blue line boundary of the application site. With the exception of two residential properties on the opposite side of the highway to the application site, and a neighbouring dwelling immediately to the north of the site, the site is wholly surrounded by agricultural fields.

- 3.2. The site itself comprises a detached, two-storey, five-bedroom dwellinghouse alongside a detached double garage with accommodation in its roof space and an outbuilding that accommodates a garden store, two toilets, a boiler room and a dog wash. The wider site includes several large open fields that are currently used for equestrian purposes, a manège, and several single storey agricultural buildings that are predominantly sited in a courtyard arrangement to the northeast of the dwellinghouse. A further agricultural building is located to the east of these structures. Public Footpath S26 runs northwest to southeast through the equestrian fields in the wider site.

4. Relevant Planning History

- 4.1 **24/00488/HOU** Permitted (determined: 01.08.2026)
Two-storey side extension, creation of balcony, demolition and replacement of ancillary outbuilding and construction of a double garage

5. Publicity and Consultation

- 5.1. There is no statutory requirement to consult third parties on an application for a Lawful Development Certificate, therefore none has been undertaken.

6. Policy

- 6.1 Section 192 of the Town and Country Planning Act 1990.
- 6.2 Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO').

7. Appraisal

- 7.1 Section 192 of the Town and Country Planning Act 1990 enables any person with the opportunity to ascertain whether any proposed use of buildings or other land, or any operations proposed to be carried out in, on, over or under land would be lawful.
- 7.2 Planning Practice Guidance ('PPG') states that the applicant is responsible for providing sufficient information to support an application. In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved. Without sufficient or precise information, a local planning authority may be justified in refusing a certificate. However, this does not preclude another application being submitted later on if more information can be produced.

- 7.3 Buildings, enclosures, swimming or other pools within the curtilage of a dwellinghouse that are required for a purpose incidental to the enjoyment of the dwellinghouse can represent Permitted Development, subject to the works complying with the limitations and conditions of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO'). This is the basis of the Applicant's justification for the proposed development.
- 7.4 Based on satellite imagery, the residential garden space associated with the dwellinghouse has remained consistent since 1999 at latest. It is therefore considered that the proposed structure would be within the curtilage of the dwellinghouse.
- 7.5 There is no statutory definition of 'incidental' within the GPDO. The Permitted Development Rights for Householders Technical Guidance (2019) ('Technical Guidance') confirms that a purpose incidental to a house would not 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.
- 7.6 Planning case law confirms how decision makers should interpret 'incidental' uses. Whether an outbuilding is required is largely a matter for the occupants of a dwellinghouse to determine, subject to reasonableness and the genuine circumstances of a particular case, not the unrestrained whim of an individual occupant (*Wallington v Secretary of State for Wales [1991] 1 PLR 87*). Whilst the size of the building may be an important consideration when determining if a building is to be used incidental to the enjoyment of a dwellinghouse, it is not by itself conclusive (*Emin v SSE and Mid Sussex District Council [1989] 58 P & CR 416*). Ultimately, each case has to be judged on a fact and degree basis (*Peche d'or Investments v SSE [1996] JPL 311*) as to whether the building is genuinely and reasonably required or necessary to accommodate the proposed use and thus to achieve the intended purpose in light of the particular circumstances. This position is supported by the latest planning appeals, including those at, but not limited to, 7 School Cottages, Mayford green, Woking (3360994), Willis House, Northmead Lane, Bristol (3357753), 15 Upton Park, Slough (3359343), and 43 Victoria Road, London (3333812).
- 7.7 The Covering Letter states that the proposed outbuilding is for the private and personal use of the Applicant and their family, and the size and scale of the development is considered by the Applicant to be relatedly modest in light of the size of the 208.5 square metre host dwelling, its existing 120 square metre outbuildings and its associated grounds. No further justification has been provided for the development.

- 7.8 It is not disputed that a gym, a bar, a swimming pool, and the associated facilities could be considered to be capable of representing uses required for purposes incidental to the enjoyment of the dwellinghouse in principle.
- 7.9 However, no detailed information has been submitted to demonstrate why the outbuilding would be required or necessary in these site-specific circumstances, nor why the occupants of this particular dwellinghouse would reasonably require these six proposed facilities, including a 15-metre long swimming pool, a gym, a bar, changing rooms, a sauna, and a shower room.
- 7.10 Furthermore, no substantive information has been submitted as to why these uses need such large spaces to meet the private and personal needs of the occupants of this application property. For example, no details have been submitted to demonstrate that the occupants in these site-specific circumstances would reasonably require a 16 square metre changing room and a separate shower room for their personal and private use. The scheme would also include a four-metre-wide entrance hall, which has not been demonstrated to perform any meaningful function.
- 7.11 Whilst several pieces of gym equipment have been indicatively included on the Proposed Floor Plan, the Applicant has not provided any justification to demonstrate that a 5.3-metre-wide by 6.8-metre-deep room is reasonably required to meet the specific needs of the occupiers, nor that such equipment and proposed uses could not be accommodated in a smaller space with a more efficient layout.
- 7.12 Moreover, 238.3 square metres of floor space is provided around the proposed swimming pool, including an area that has a width of 8.3 metres and a depth of 2.7 metres between the pool and changing room where nothing is proposed. Although it would not be unreasonable for some floor space to be required around a swimming pool for maintenance and safety purposes, this extent of additional space would be considered to excessive for purposes incidental to the enjoyment of this particular dwellinghouse.
- 7.13 Overall, the proposal would be 67.6 square metres larger than the footprint than the existing dwelling. Therefore, this single outbuilding would be 32.4% percent larger than its host dwelling. Whilst this would not be conclusive in itself, the Applicant has failed to provide any information to demonstrate why the proposed outbuilding and its associated facilities would be reasonably required or necessary in these site-specific circumstances, nor why the proposed uses could not be accommodated in a smaller space with a more efficient layout.

- 7.14 In addition to the above, the Proposed Floor Plan indicates that the proposed bar would include a cooking area and a washing up area. These facilities demonstrate that the room could be utilised as a kitchen. This would therefore represent primary living accommodation that the Technical Guidance confirms would not be considered to represent a purpose incidental to a house.
- 7.15 Moreover, the shower room would be of a size that could accommodate a fully functioning bathroom. The Proposed Floor Plan also indicatively demonstrates that the shower room would be provided with all the facilities required for a functional bathroom in terms of a shower, toilet and hand basin. Whilst it is not unreasonable for an occupant using a home gym to wish to have access to a function toilet within the same outbuilding, the size and indicative facilities of the shower room would be considered to represent primary living accommodation, which the Technical Guidance confirms would not be considered to represent a purpose incidental to a house.
- 7.16 By virtue of the above factors, Planning Practice Guidance is clear that the Applicant is responsible for providing sufficient information to support an application to demonstrate that the proposal. It is not considered that the Applicant has demonstrated on the balance of probabilities that the proposed outbuilding would be commensurate with the reasonable requirements of a household occupying the planning unit in these site-specific circumstances. As such, the Applicant has failed to demonstrate that the proposed outbuilding would be required for purposes incidental to the enjoyment of the dwellinghouse. Therefore, it is not considered that the proposed development would comply with the requirements of, or benefit from the Permitted Development Rights of, Class E of Part 1 of Schedule 2 of the GPDO in these site-specific circumstances.
- 7.17 Notwithstanding the above, permission to use the dwellinghouse as a dwellinghouse was not granted by virtue of Part 3 of the Schedule 2 of the GPDO, and the property was not built under Part 20 of Schedule 2 of the GPDO. Therefore, the proposal would be considered to comply with Paragraphs E.1(a) and (k) of Class E. The building would also not be situated within the curtilage of a Listed Building, nor would it be sited on any land which is article 2(3) land. Therefore, the proposal would be considered to comply with Paragraphs E.1(g) of Class E, and Paragraphs E.2 and E.3 would not be applicable in these site-specific circumstances.
- 7.18 The proposed outbuilding would not include the construction or provision of a verandah, balcony, raised platform, or a container, and the scheme would not relate to a microwave antenna. As such, the proposal would be considered to comply with Paragraphs E.1(h), (i), and (j) of Class E.

- 7.19 The structure would not be sited on land forward of a wall forming the principal elevation of the original dwellinghouse and it would not be within 2 metres of the boundaries of the curtilage of the dwellinghouse. The development would be single storey in nature, and it would feature a dual pitched roof that has a ridge height of 4 metres and an eaves height of less than 2.5 metres, alongside two flat roofs that would not exceed 3 metres in height. Although the structure is of a significant size, and scale, the proposal would not result in the total area of ground covered by buildings, enclosures, and containers within the curtilage of the dwellinghouse exceeding 50% of the total area of the curtilage. In light of the above, the proposal would be considered to comply with Paragraphs E.1 (b), (c), (d), (e) and (f) of Class E.
- 7.20 By virtue of the above, the proposal would be considered to comply with the limitations and conditions of Paragraphs E.1, E.2, and E.3 of Class E.
- 7.21 In conclusion, although the development would be considered to comply with the limitations and conditions of Paragraphs E.1, E.2, and E.3 of Class E, Planning Practice Guidance states that the applicant is responsible for providing sufficient information to support an application. It is considered that the Applicant has failed to demonstrate on the balance of probabilities that proposed outbuilding would be required for purposes incidental to the enjoyment of the dwellinghouse. Without sufficient or precise information, a local planning authority may be justified in refusing a certificate.
- 7.22 Given the above, the Applicant has failed to demonstrate on the balance of probabilities that the proposed outbuilding would be required for purposes incidental to the enjoyment of the dwellinghouse. The Applicant has therefore failed to demonstrate that the development would be lawful, nor that the proposal would comply with the requirements of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in these site-specific circumstances. As a consequence of the above, the Applicant has failed to demonstrate that the development would be lawful, and as such a Lawful Development Certificate is refused.

8. Equality Implications

- 8.1 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; and
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.2 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.

8.3 There are no known equality implications arising directly from this development.

8.4 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).

9. Conclusion

9.1 The Applicant has failed to demonstrate on the balance of probabilities that the proposed outbuilding at Kirkby Old Parks Farm, Kirkby Lane, Newbold Verdon would be required for purposes incidental to the enjoyment of the dwellinghouse. The Applicant has therefore failed to demonstrate that the development would be lawful, nor that the proposal would comply with the requirements of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) in these site-specific circumstances. As such a Lawful Development Certificate is refused.

9.2 This conclusion is made on the basis of details provide by the Applicant, and as shown on the following documents received by the Local Planning Authority on 14 August 2026:

- Application Form
- Block Plan Drw No.269-03 Rev A

- Cover Letter
- Location Plan Rev 0 Drw No. 269-02
- Proposed Plans and Elevations Rev B Drw No. 269-02

10. Recommendation

10.1 Refuse Certificate of Proposed Lawful Development