LIST OF RECOMMENDATIONS UNDER DELEGATED POWERS

REPORT FOR CONSIDERATION UNDER DELEGATED POWERS

1. APPLICATION DETAILS

Reference No: HGY/2016/1906 **Ward:** Highgate

Date received: 13/06/2016

Drawing number of plans: P/16/108/001, P/16/109/002 & P/16/109/003

Address: 28 Wood Lane N6 5UB

Proposal: Certificate of lawfulness for conversion of garage to habitable space

Applicant: Mr & Mrs M Wills

Ownership: Private

Case Officer: Laurence Ackrill

2. RECOMMENDATION

GRANT CERTIFICATE

3. RELEVANT PLANNING AND ENFORCEMENT HISTORY

None

4. DETAILS OF PROPOSAL

This is an application for a certificate of lawfulness for the conversion of an existing detached garage in to a habitable space, involving the insertion of internal insulation and a window.

5. RELEVANT PLANNING LEGISLATION

The application has been made under section 192 of the Town and Country Planning Act 1990 and relevant amendments. This not a planning application but instead the applicant seeks confirmation that the proposed development is lawful. As such, the impact of the proposed development of the neighbour's amenities or the character of the area cannot be taken into consideration for this submission.

6. ANALYSIS/ASSESSMENT OF THE APPLICATION

Class E: The provision within the curtilage of the dwellinghouse of 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 a container used for domestic heating purposes for the storage of oil or liquid petroleum gas

A certificate Lawfulness for the alterations can be issued if the proposal meets all the criteria under The Town and Country Planning (Generally Permitted Development) (Amendment) (No.2) (England) Order 2008 – Part 1, 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.'

The current proposal will be assessed against these requirements as follows:

Class E.1. Requirement	Comment	Complies
(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use)		Yes
b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would not exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);		Yes
c) no 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;		Yes
d) the building would not have more than one storey		Yes
e) the height of the building, enclosure or container would not 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	N/A due to the existing building being lawful via the passage of time and the proposal does not involve extending the existing building.	N/A
f) the height of the eaves of the building would not exceed 2.5 metres;	N/A due to the existing building being lawful via the passage of time and the proposal does not involve extending the existing building.	N/A
g) the building, enclosure, pool or container would not be situated within the curtilage of a listed building;	See appraisal below.	Yes
h) it would not include the construction or provision of a veranda, balcony or raised platform;		Yes
i) it does not relate to a dwelling or a microwave antenna;		Yes
j) the capacity of the container would not exceed 3,500 litres		N/A

Development is permitted by Class E subject to the following conditions.

E.2. Condition	Comment
In the case of any land within the curtilage of the dwellinghouse which is within— (a) a World Heritage Site, (b) a National Park, (c) an area of outstanding natural beauty, or (d) the Broads, development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres.	N/A
E.3 Condition	**Comment**
In the case of any land within the curtilage of the dwellinghouse which is article 1(5) land, development is not permitted by Class E if any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse.	N/A

Appraisal:

The site is located within the Highgate Conservation Area and the main dwelling on the site is a grade II listed building. However, the site is not located within an Article 4 Direction. In addition, there are no previous conditions relating to the garage that would restrict permitted development rights.

It is noted that the host property at No. 28 Wood Lane is Grade II listed and the detached garage forms part of the current curtilage of the Listed Building. Nevertheless, Historic England states, as derived from case law *Attorney-General v Calderdale BC relating to Nutclough Mill at Hebden Bridge in West Yorkshire and the extent of the cartilage of listed buildings*, that the curtilage of a building has to be determined on a case-by-case basis. Relevant factors in determining that area will be: the physical layout; past and present ownership; and, current and previous uses of the land and buildings.

Firstly, it is apparent from the layout of the curtilage of the site, and also shown on historical maps, that the land on which the subject garage has been constructed did not form part of the original curtilage of the dwelling and has subsequently been added on to the original curtilage of the host property.

In addition, the host property at No. 28 Wood Lane was listed on the 10th May 1974. However, it is noted from the Council's Building Control records, that the detached garage was constructed in 1980.

Therefore, at the time of the original listing of the dwelling at No. 28 Wood Lane, the existing detached garage had no functional relationship with the dwelling as it did not exist. As such, although the garage is on land within the ownership of the applicant, it is not considered that the existing detached garage falls within the curtilage of the listed building.

The applicant has confirmed that the use of the converted garage would remain ancillary to the enjoyment of the main dwelling and not converted in to a separate residential or

commercial unit and the external alterations to the external fenestration and internal alterations to the garage would comply with Class E of the General Permitted Development Order and would not require planning permission.

7.0 SUMMARY AND CONCLUSION

The proposed development constitutes permitted development by virtue of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 and is considered to be lawful.

The proposed development would not constitute permitted development by virtue of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 and requires Planning Permission

9.0 RECOMMENDATION

Grant Certificate

Registered No. HGY/2016/1906

Applicant's drawing No.(s) P/16/108/001, P/16/109/002 & P/16/109/003

In pursuance of their powers under the above Acts and Order the London Borough of Haringey as local planning Authority hereby CERTIFY that the above proposal described by the applicant constitutes PERMITTED DEVELOPMENT and is therefore LAWFUL.