

Officer's Report

Application Number	HGY/2023/0744
Type	Lawful development: Proposed use
Location	13 St Pauls Road, Tottenham, London, N17 0NB
Proposal	Certificate of lawfulness for the proposed erection of an outbuilding in the rear garden.
Case Officer	Neil McClellan
Valid Date	16/03/2023
Applicant	mr tanim tanimul
Agent	Mr david barnard

RECOMMENDATION

Refuse

PLANNING HISTORY

13 St Pauls Road

HGY/2022/4518 – Planning permission granted for the erection of a rear ground floor extension and the conversion of the property into two self-contained flats (Class C3 Use). Decided 29.03.2023.

HGY/2022/4514 – Planning permission refused for the change of use of the property to a House in Multiple Occupation (HMO) for up to 6 occupants (Class C4 Use). Decided 29.03.2023.

HGY/2020/1605 – Certificate of lawfulness granted for the formation of a rear dormer and roof extension including the insertion of 2 front rooflights and a single storey rear extension. Decided 21.08.2020.

11 St Pauls Road

The applicant has cited a similar sized outbuilding within the back garden of the neighbouring property at 11 St Paul's Road that was recently granted a certificate of lawfulness under application reference HGY/2022/0426. Unfortunately this certificate was granted in error, as the outbuilding exceeds the height restrictions for outbuildings sited within 2 metres of the property's boundary.

DETAILS OF PROPOSAL

Certificate of lawfulness for the proposed erection of a ground floor rear extension, front porch, rear roof dormer and front rooflights.

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.

Class E – buildings etc incidental to the enjoyment of a dwellinghouse

A Certificate of Lawfulness for 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 can be issued if the proposal meets all the criteria under The Town and Country Planning (Generally Permitted Development) (Amendment) (No.2) (England) Order 2015 – Part 1, Class E ‘buildings etc incidental to the enjoyment of a dwellinghouse’.

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

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 M, N, P or Q of Part 3 of this Schedule (changes of use);

Complies.

(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);

Complies.

(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;

Complies.

(d) the building would have more than a single storey;

Complies.

(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;**

Does not Comply.

As confirmed in the Ministry of Housing, Communities and Local Government’s Technical Guidance on permitted development rights for householders (September 2019), if any part of the building, container or enclosure is within 2 metres of the boundary of the curtilage of the house, then the height limit for the total development is restricted to 2.5 metres if it is to be permitted development.

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

Complies.

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

Complies.

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

Complies.

(I) it relates to a dwelling or a microwave antenna;

Complies.

(j) the capacity of the container would exceed 3,500 litres.

Complies.

E.2. In the case of any land within the curtilage of the dwellinghouse which is within (a) an area of outstanding natural beauty; (b) the Broads; (c) a National Park; or (d) a World Heritage Site, 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.

Complies.

E.3. In the case of any land within the curtilage of the dwellinghouse which is article 2(3) 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.

Complies.

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.

CIL

The increase in internal floor area would not exceed 100sqm and therefore the proposal is not liable for the Major's CIL charge.

SUMMARY AND CONCLUSION

The height of the proposed outbuilding would exceed 2.5 metres and would be within 2 metres of the boundary of the curtilage of the dwellinghouse, contrary to E.1, (e), (ii) as set out in the considerations above. The proposed development therefore does 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 is therefore NOT considered to be lawful.

RECOMMENDATION

Refuse Certificate for the following reason(s):

Refusal Reasons:

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 does not constitute PERMITTED DEVELOPMENT and is therefore UNLAWFUL.

Informatives:

- INFORMATIVE: Class E Technical Guidance
As stated on page 43 of the Ministry of Housing, Communities and Local Government's Technical Guidance on permitted development rights for householders (September 2019), under Schedule 2, Part 1, Class E, E.1, (e), (ii) of the Town and Country Planning (General Permitted Development) Order 2015, if any part of the building, container or enclosure is within 2 metres of the boundary of the curtilage of the house, then the height limit for the total development is restricted to 2.5 metres if it is to be permitted development.