

Officer's Report

Application Number	HGY/2022/4501
Type	Lawful development: Proposed use
Location	1 Atterbury Road, Hornsey, London, N4 1SF
Proposal	Certificate of lawfulness for the proposed erection of an outbuilding to be used for purposes incidental to the enjoyment of the dwellinghouse.
Case Officer	James Mead
Valid Date	19/02/2023
Applicant	Mr Paul Akinpelu Anderson
Agent	Mr Martyn Clark

RECOMMENDATION

Permitted Development

1. RECOMMENDATION

GRANT CERTIFICATE.

2. RELEVANT PLANNING HISTORY

- HGY/2022/2006: Certificate of lawfulness for proposed hip to gable and rear dormer extensions. Permitted Development.
- HGY/2014/0494: Reversion of property to single family dwelling (certificate of lawfulness for an existing use). Approved.

3. DETAILS OF PROPOSAL

This application seeks a lawful development certificate for the erection of an outbuilding to be used for purposes incidental to the enjoyment of the dwellinghouse.

4. 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 on the neighbour's amenities or the character of the area cannot be taken into consideration for this submission.

5. ANALYSIS/ASSESSMENT OF THE APPLICATION

Class E: The provision within the curtilage of the dwellinghouse of any building or enclosure required for a purpose incidental to the enjoyment of the dwellinghouse

A lawful development certificate for the erection of an outbuilding can be issued if the proposal meets all the criteria under The Town and Country Planning (Generally Permitted Development) (England) Order 2015 (GPDO) – Schedule 2, Part 1, Class E. The current proposal will be assessed against the requirements of Class E.

PART 1: Compliance with criteria/requirements outlined in legislation.

E.1

(a) permission to use the dwellinghouse as a dwellinghouse has not been granted only by virtue of Class G, M, MA, N, P, PA 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 not 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 not be situated on land forward of a wall forming the principal elevation of the original dwellinghouse;
Complies.

(d) the building would not have more than a single storey;
Complies.

(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;
Complies – The outbuilding would be within 2 metres of the boundary, but would not exceed 2.5 metres in height.

(f) the height of the eaves of the building would not exceed 2.5 metres;
Complies.

(g) the building, enclosure, pool or container would not be situated within the curtilage of a listed building;
Complies.

(h) it would not include the construction or provision of a verandah, balcony or raised platform;
Complies.

(i) it does not relate to a dwelling or a microwave antenna;
Complies.

(j) the capacity of the container would not exceed 3,500 litres.;
N/A.

(k) the dwellinghouse was not built under Part 20 of this Schedule (construction of new dwellinghouses).
Complies.

E.2

N/A – The land is not within an area of outstanding natural beauty, the Broads, a National Park or a World Heritage Site.

E.3

N/A – The land is not within a Conservation Area.

PART 2: Is the outbuilding 'required for a purpose incidental to the enjoyment of the dwellinghouse'?

In considering this application, the LPA equally need to be considered whether the space proposed is genuinely 'incidental to the enjoyment of the dwellinghouse'. There is no statutory definition of the term 'incidental' in the GPDO, rather case law provides guidance on how decision-makers should make such judgements.

In terms of the relevant case law, the Courts in *Emin v Secretary of State for the Environment and Mid-Sussex County Council* [1989] JPL 909 held that the term 'incidental' connotes an element of subordination in land use terms, in relation to the enjoyment of the dwelling itself. The test to be applied here is whether, in the context of the planning unit, 'the uses of the proposed buildings are intended and would remain incidental or subordinate to the main use of the building as a dwellinghouse'. In taking this approach, regard should be had to the proposed uses and the nature/scale of such uses. The physical size of the building in comparison to the dwellinghouse might be part of that assessment, but is not itself conclusive. As such, officers must consider whether as a matter of fact and degree, it has been demonstrated that the proposed floorspace is genuinely and reasonably required or necessary. In coming to this conclusion, officers should take into account the specific circumstances of this site and any information provided by the applicant.

It is acknowledged that the proposed outbuilding would be of notable footprint, measuring approximately 48 square metres. However, this footprint is not considered excessive, in relation to the size of the main dwelling, and therefore the outbuilding would not dominate the existing dwellinghouse or the site. From this perspective, the proposed outbuilding could be considered appropriately subordinate. Whilst this is noted, regard must also be had to the nature/scale of the uses, when determining whether the outbuilding would be 'incidental'.

In this instance, the proposed outbuilding would accommodate a music room, home office, bike store and shower room. Such uses are often allowed under Class E permitted development. A Supporting Statement has been provided with this application and this seeks to explain why the additional floor space is reasonably required. In terms of the music room, the Supporting Statement notes that members of the family are keen musicians. A photo has been supplied showing the storage of instruments in the living room of the main house. This photo, together with the available floor plans of the house, indicate that there is not a specific room within the dwelling dedicated solely to the storage of these instruments. Noting this, and given the somewhat bulky nature of the instruments, it is accepted that there is a justification for a new space for the storage and use of the instruments. Therefore, the music room is considered to be reasonably required for a purpose incidental to the enjoyment of the dwellinghouse.

The Supporting Statement notes that members of the family run a business. The home office for this business is currently located within the master bedroom of the house and photos have been supplied to show this. The incorporation of this office space into the master bedroom demonstrates that there is a lack of space within the main house for the provision of a home office. Due to this, it is considered that there is justification for this new office space, and as such the home office would be reasonably required for a purpose incidental to the enjoyment of the dwellinghouse. The bike store and shower room would be spaces of minor size, and therefore officers are content that these uses would also be incidental.

The outbuilding would not contain any primary living accommodation, with the main purposes of the new space being typical incidental uses. These uses would be associated with the use of the

main property as a dwelling, but would not be of such scale to dominate the dwellinghouse. As such, from this perspective, the use of the outbuilding would be incidental to the main house.

Overall, the proposed outbuilding would not be of such scale that it would overwhelm the host dwelling. In these terms, the outbuilding would be subordinate and incidental to the main house. The use of the outbuilding as a music room, home office, shower room and bike store is considered to be justified on this site. These spaces and the outbuilding itself would be reasonably required for purposes incidental to the enjoyment of the dwellinghouse. Therefore, the proposed outbuilding falls within the scope of Class E.

6.0 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.

7.0 RECOMMENDATION

Grant Certificate.

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.