



Officer Report

Application Number:	HGY/2023/1723
Application Type:	Lawful development: Proposed use
Address:	13 St Pauls Road, Tottenham, London, N17 0NB
Proposal:	Certificate of Lawfulness for proposed erection of an outbuilding in the rear garden.
Case Officer:	Daniel Kwasi
Valid Date:	29/06/2023
Applicant:	Mr Tanim Tanimul
Agent:	Mr David Barnard

RECOMMENDATION

Refuse

RECOMMENDATION

REFUSE CERTIFICATE

Relevant Planning and Enforcement history

HGY/2023/0744 | REF 11/04/2023 Certificate of lawfulness for the proposed erection of an outbuilding in the rear garden.

HGY/2022/4518 | GTD 29/03/2023 Erection of a rear ground floor extension and the conversion of the property into two self-contained flats (Class C3 Use).

HGY/2022/4514 | REF 29/03/2023 Proposed change of use of property to a House in Multiple Occupation (HMO) for up to 6 occupants (Class C4 Use).

HGY/2020/1605 | GTD 21/08/2020 Certificate of lawfulness for the formation of a rear dormer and roof extension including the insertion of 2 front rooflights and a single storey rear extension (Proposed).

DETAILS OF PROPOSAL

This is an application for a certificate of lawfulness for a proposed use for the erection of an outbuilding in the rear garden.

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.

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 of lawfulness for a proposed use for the erection of an outbuilding in the rear garden 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 '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.'

Comment: With a footprint of approx. 83sqm and an internal floor area of approx. 74sqm, the outbuilding is considered to be too large to be 'incidental' to the enjoyment of the dwelling house. Previous appeal decisions have established that the size of an outbuilding is an factor in whether or not it can be considered 'incidental' to the enjoyment of a dwellinghouse for the purposes of Class E. Notwithstanding the nature of the uses being proposed, or whether it meets the 50% rule in E.1(b), the overall size of an outbuilding can be considered excessive in the context of the property it relates to. In this case the outbuilding is considered excessive.

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

Class E.1. Requirement

(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: 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);

Complies: 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;

Complies: Yes

d) the building would not have more than one storey

Complies: 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

Complies: No. Comment: While the rear and side elevations do show the height of the building as being 2.5 metres, the front elevation scales off at approx., 2.7m high. This may be an unintended inaccuracy in the drawings, however in the absence of more accurate drawings it is not possible to state that the application complies with this restriction.

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

Complies: No. See comment above.

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

Complies: Yes

h) it would not include the construction or provision of a veranda, balcony or raised platform;

Complies: Yes

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

Complies: Yes

j) the capacity of the container would not exceed 3,500 litres

Complies: Yes

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

E.2. Condition

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.

Comment: N/A

E.3 Condition

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.

Comment: N/A

Community Infrastructure Levy

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 footprint of the proposed outbuilding is too large in relation to the size of the application property to be considered 'incidental' to the enjoyment of the dwellinghouse, and inaccuracies in the submitted drawings mean that it is not possible to assess whether it will meet the relevant height restrictions. The proposed outbuilding is therefore not considered to comply with all the relevant restrictions and conditions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 and is therefore considered to be unlawful.

RECOMMENDATION

Refuse Certificate for the following reason(s):

Refusal Reasons:

The footprint of the proposed outbuilding is too large in relation to the size of the application property to be considered 'incidental' to the enjoyment of the dwellinghouse, and inaccuracies in the submitted drawings mean that it is not possible to assess whether it will meet the relevant height restrictions. The proposed outbuilding is therefore not considered to comply with all the relevant restrictions and conditions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 and is therefore considered to be unlawful.