

OFFICER REPORT FOR DECISION UNDER DELEGATED AUTHORITY

APPLICATION NO: D0237.23

WARD: Beam Park **Date Received:** 25th May 2023

ADDRESS: 57 Askwith Road
Rainham

PROPOSAL: Certificate of Lawfulness for construction of a detached rear outbuilding with canopy

DRAWING NO(S): 18/310/013 Rev A
18/310/015 Rev A

RECOMMENDATION: It is recommended that a **Certificate of Lawfulness not be issued in this case** for the reason(s) given at the end of the report

SITE DESCRIPTION

Residential, detached bungalow finished in a mixture of pebble dash and painted render. The application dwelling is not a listed building or within a conservation area.

DESCRIPTION OF PROPOSAL

A Certificate of Lawfulness is sought for the construction of a detached rear outbuilding with canopy

RELEVANT HISTORY

CONSULTATIONS/REPRESENTATIONS

This is an application for a Certificate of Lawful Development (proposed), which is a request to the Council to confirm that the development as specified is Lawful. In assessing this application, the Council is making a determination of fact and as such, it is not considered to be necessary to undertake a public consultation.

RELEVANT POLICIES

Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.

MAYORAL CIL IMPLICATIONS

This application is CIL liable as the new floor space created would exceed 100 square metres. The creation of 135.13sq.m.

HCIL - £17000

MCIL - £3400

Total = £20400

STAFF COMMENTS

In accordance with the current criteria for site visits, an in-person site visit was not undertaken. In determining this planning application photos, Google StreetView TM, aerial view images and submitted drawings were used to assess the site constraints.

The main issues are:

1. Whether the proposed works are permitted development by virtue of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Is the property a dwellinghouse? - Yes

Have permitted development rights been removed? - No

Is it within a conservation area? - No

Is the proposed use incidental to the use of the dwellinghouse? - No

Officer Comment:

Although, it is indicated as a games room on plan, it is the responsibility of officers to evaluate whether the development is reasonably required for the enjoyment of the dwelling as such. The proposed size of the games room at 191% and 321%(including the canopy) larger than the original property would not be considered to be reasonably required for the enjoyment of the host property. Although, there is no statutory definition of "incidental" in the GPDO, however, it would be considered that the outbuilding should be of a modest proportion with the host property. The applicant has failed to provide details of why a building of this size is reasonably required for the use proposed.

In an appeal ref: APP/B5480/X/21/3287415, the Planning Inspector in paragraph 31 states " Size in itself is not decisive but it is a material consideration in my assessment of reasonableness and the footprint of the proposed outbuilding amounts to, in the region of, half the ground floor of the dwelling. As such, the size of the outbuilding is an indicator that its uses are unlikely to be ancillary or subordinate to the main use of the building as a dwelling. This weighs against the appellant"

In this case, the original ground floor area of the host property is 69.13sq.m and the proposed games room would be 132.13sq.m and 222.01sq.m (including canopy), which would be 191.13% and 321% (including canopy) of the ground floor area of the original property, therefore, it would be considered that the size of the proposed outbuilding would not be genuinely and reasonably

required to achieve the purpose of accommodating the proposed incidental activities, and would therefore not fall within the parameters of Class E, Part 1, Schedule 2 of the GPDO.

(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 - see comments above

(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas? - N/A

Development not Permitted

E.1 Development is not permitted by Class E if -

(a) Has permission to use the dwellinghouse as a dwellinghouse been granted only by virtue of Class M, MA, N, P, PA or Q of Part 3? - No

(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)? - No

(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? - No

(d) the building would have more than a single storey? - No

(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? - No

(f) the height of the eaves of the building would exceed 2.5 metres? - No

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building? - No

(h) it would include the construction or provision of a verandah, balcony or raised platform? - Yes - approximately 9m deep canopy (verandah)

(i) it relates to a dwelling or a microwave antenna? - No

(j) the capacity of the container would exceed 3,500 litres? - N/A

(k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses) - No

E.2 Deliberately Excluded

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? - NA

KEY ISSUES/CONCLUSIONS

It is not considered that the totality of the proposed outbuilding is genuinely and reasonably required to achieve the purpose of accommodating the proposed incidental activities. It therefore would not fall within the parameters of Class E, Part 1, Schedule 2 of the GPDO.

It would therefore require planning permission, and as such, it is therefore recommended that a Certificate of Lawfulness should not be issued in this instance.

RECOMMENDATION:

It is recommended that a **Certificate of Lawfulness not be issued in this case** for the following reason(s)

1 Cert of Lawfulness - Reason for Refusal

The operations do not fall within the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015, as amended. Specifically, the use of the proposed outbuilding would not be incidental to the dwelling and the provision of canopy to the proposed outbuilding by reason of its excessive size.

INFORMATIVES

1 Refusal and CIL (enter amount)

The proposal, if granted planning permission on appeal, would be liable for the Mayor of London and Havering Community Infrastructure Levy (CIL). Based upon the information supplied with the application, the Mayoral CIL payable would be £3,400 based on the calculation of £25.00 per square metre and the Havering Community Infrastructure Levy (HCIL) would be a charge of £17000 based on calculation of £125 per square metre. Each would be subject to indexation.

Further details with regard to CIL are available from the Council's website.

Authorising Officer:



Raphael Adenegan

26th July 2023