

**WELWYN HATFIELD BOROUGH COUNCIL
EXECUTIVE DIRECTOR - PLANNING, PUBLIC PROTECTION AND GOVERNANCE**

DELEGATED APPLICATION

Application No: 6/2017/2664/LAWP
Location: Manor Cottage Vineyards Road Northaw Potters Bar EN6 4PQ
Proposal: Certificate of Lawfulness for the erection of 2x single storey side extensions, erection of outbuilding and the installation of dormer widow
Officer: Mr David Elmore

Recommendation: Refused

6/2017/2664/LAWP

Context		
Application Description	Certificate of Lawfulness for the erection of 2no. single storey side extensions, erection of outbuilding and installation of dormer window.	
Relevant planning History	<p>Application Number: 6/2017/2646/PN8 Decision: Prior Approval Refused Decision Date: 22 December 2017 Proposal: Prior approval for the erection of a single storey rear extension measuring 8m in depth, 2.8m in height and 2.541m to the eaves.</p> <p>Application Number: S6/2009/1131/FP Decision: Refused Decision Date: 04 September 2009 Proposal: ERECTION OF TWO STOREY SIDE EXTENSION AND NEW FRONT GABLE TO ROOF</p> <p>Application Number: E6/1969/0499/ Decision: Granted Decision Date: 27 March 1969 Proposal: Extension to bungalow.</p> <p>Application Number: E6/1968/0856/ Decision: Refused Decision Date: 13 June 1968 Proposal: Extension to form living room, 4 bedroom and bathroom.</p> <p>Application Number: E6/1957/1479/ Decision: Granted Decision Date: 23 January 1958 Proposal: Extension to bungalow.</p>	
The main issues are:		
<p>1. Whether the proposed works are permitted development by virtue of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended</p> <p><i>The enlargement, improvement or other alteration of a dwellinghouse</i></p>		
	Yes / No	To be PD
Have permitted development rights been removed	N	N

Is the property a dwellinghouse	Y	Y
Is it detached?	Y	
Is it semi-detached or terraced?		
Is it within a conservation area		
(a) Has 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)	N	N
Development not permitted by Class A		
(b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)	N	N
(c) would the height of the part of the dwellinghouse enlarged, improved or altered exceed the height of the highest part of the roof of the existing dwellinghouse	N	N
(d) would the height of the eaves of the part of the dwellinghouse enlarged, improved or altered exceed the height of the eaves of the existing dwellinghouse	Y	N
<i>DISCUSSION:</i> <i>The eaves of the side extensions would be 14.4cm higher than the height of the eaves of the existing dwelling dwellinghouse</i>		
(e) would the enlarged part of the dwellinghouse extend beyond a wall which:- (i) forms the principal elevation of the original dwellinghouse; or (ii) fronts a highway and forms a side elevation of the original dwellinghouse	Y	N
<i>DISCUSSION:</i> <i>The dwellinghouse benefits from a front extension, granted planning permission under ref: E6/1957/1479/. Both side extensions proposed would extend beyond the principal elevation of the original dwellinghouse. The proposal therefore fails to accord with this limitation.</i>		
(f) would, subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and— (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or (ii) exceed 4 metres in height	N	N
until 30th May 2019		
(g) is the development outside of article 2(3) land (conservation area) or outside of a site of special scientific interest	N/A	Y
(g) cont_ would it have a single storey (previous extensions to the rear need to be taken into account)	N/A	
(i) Would it extend beyond the rear wall of the original dwellinghouse by up to or the equivalent of 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse		
(ii) Be less than or equal to 4 metres in height	N/A	
Have any representations been received from adjoining premises	N/A	
(h) would the enlarged part of the dwellinghouse have more than one storey and:- (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse	N	N
(i) would the enlarged part of the dwellinghouse be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the	N	N

enlarged part would exceed 3 metres		
(j) would the enlarged part of the dwellinghouse extend beyond a wall forming a side elevation of the original dwellinghouse, and:- (i) exceed 4 metres in height, (ii) have more than one storey, or (iii) have a width greater than half the width of the original dwellinghouse <i>DISCUSSION:</i> <i>The proposed side extension would join onto non-original extensions granted permission under refs: E6/1957/1479/ & E6/1969/0499/, and therefore, exceed 4 metres in height, have more than a single storey and have a width greater than half the width of the original dwellinghouse. The proposal therefore fails to accord with this limitation.</i>	Y	N
(ja) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j);	Y	N
(k) it would consist of or include:- (i) the construction or provision of a veranda, balcony or raised platform, (ii) the installation, alteration or replacement of a microwave antenna, (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or (iv) an alteration to any part of the roof of the dwellinghouse	N	N
A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted if:- (a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;	N/A	N
(b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse;	N/A	N
(c) the enlarged part of the dwellinghouse would have more than one storey and extend beyond the rear wall of the original dwellinghouse	N/A	N
(d) any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (b) and (c).	N/A	
A.3 Development is permitted by Class A subject to the following conditions:- (a) would the materials used in any exterior work (other than materials used in the construction of a conservatory) be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse	Y	Y
(b) would any upper-floor window located in a wall or roof slope forming a side elevation of the dwelling house be:- (i) obscure-glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed;	N/A	Y
(c) where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.	Y	Y
The main issues are:		
<p>2. Whether the proposed works are permitted development by virtue of Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended</p> <p><i>The enlargement of a dwellinghouse consisting of an addition or alteration to its</i></p>		

roof.		
	Yes/No	To be PD
B.1 (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);	N	N
(b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;	N	N
(c) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway	N	N
(d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than— (i) 40 cubic metres in the case of a terrace house, or (ii) 50 cubic metres in any other case;	Y	N
<i>DISCUSSION:</i> <i>The original dwellinghouse had a shallow pitched roof with a volume of approx. 60.4 cubic metres. The original roof has enlarged and extended through planning permissions: E6/1957/1479/ & E6/1969/0499/. These extensions together with the dormer windows proposed would increase the volume of the roof to 239.7 cubic metres. As such, the cubic content of the original roof space would in increased by 179.3 cubic metre. The proposal therefore fails to accord with this limitation.</i>		
(e) it would consist of or include— (i) the construction or provision of a verandah, balcony or raised platform, or (ii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe; or	N	N
(f) the dwellinghouse is on article 2(3) land.		
B.2 (a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;	Y	Y
(b) the enlargement must be constructed so that— (i) other than in the case of a hip-to-gable enlargement or an enlargement which joins the original roof to the roof of a rear or side extension— (aa) the eaves of the original roof are maintained or reinstated; and (bb) the edge of the enlargement closest to the eaves of the original roof is, so far as practicable, not less than 0.2 metres from the eaves, measured along the roof slope from the outside edge of the eaves; and (ii) other than in the case of an enlargement which joins the original roof to the roof of a rear or side extension, no part of the enlargement extends beyond the outside face of any external wall of the original dwellinghouse; and	Y	Y
(c) any window inserted on a wall or roof slope forming a side elevation of the dwellinghouse must be— (i) obscure-glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.	N/A	N/A
<p>The main issues are:</p> <p>3. 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</p> <p><i>The provision within the curtilage of the dwellinghouse of—</i> (a) any building or enclosure, swimming or other pool required for a purpose incidental</p>		

<i>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.</i>		
	Yes/No	To be PD
(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);	N	N
(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);	N	N
(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;	N	N
(d) the building would have more than a single storey;	N	N
(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;	N	N
(f) the height of the eaves of the building would exceed 2.5 metres;		N
(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;	N/A	N
(h) it would include the construction or provision of a verandah, balcony or raised platform;	N	N
(i) it relates to a dwelling or a microwave antenna; or	N	N
(j) the capacity of the container would exceed 3,500 litres.	N/A	N
<u>Whether the outbuilding is incidental to the enjoyment of the dwellinghouse?</u>		
<p>There is no statutory definition of the word “incidental”. However, case law provides authority for how this should be interpreted by decision makers. In the leading case of <i>Emin v SSE</i> [1989] it was held that it was wrong to conclude that an outbuilding could not be said to be required for a use reasonably incidental to the enjoyment of a dwellinghouse as such because it would provide more accommodation for secondary activities than the dwelling provided for primary activities. Nevertheless, the test must retain an element of objective reasonableness and should not be based on the unrestrained whim of an occupier: <i>Wallington v SoS for Wales</i> [1990]; <i>Holding v FSS</i> [2004]; <i>Croydon LBC v Gladden</i> [1994]. On the other hand, a hard objective test should not be imposed to frustrate the reasonable aspirations of a particular owner or occupier so long as they are sensibly related to the enjoyment of the dwelling. These judgments and the findings therein serve to illustrate that with each case it is a matter of fact and degree based on the particular circumstances: <i>Peche d’or Investments v SSE</i> [1996].</p> <p>The proposed outbuilding would be situated in the rear garden of the application and measure 1200sqm. It would serve a very large wine cellar, shed and larder together with average two storage rooms. This outbuilding would be more than double the footprint of the existing dwelling which is substantial.</p> <p>The size of the wine cellar, shed and larger would be more than double the footprint of what is already a large chalet style bungalow. This is way in excess of what could be considered reasonably required as an incidental use for this 4-bed single family dwelling.</p>		
Conclusion		

The height of the eaves of the proposed side extensions would exceed the height of the eaves of the existing dwellinghouse, and therefore, would fail to accord with Schedule 2, Part 1, Class A, A.1, d, of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.

The proposed side extensions would join onto to an existing enlargement of the original dwellinghouse, and therefore, would exceed the limits set out in Schedule 2, Part 1, Class A, A.1, e, j and ja of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.

The cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than 50 cubic metres, and therefore, fails to accord with Schedule 2, Part 1, Class B, B.1, d, of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.

The proposed outbuilding is excessive and would not be reasonably required for a purpose incidental to the enjoyment of the dwellinghouse. Therefore, this aspect of the proposal would fail to comply with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.

Reasons for Refusal:

1. The height of the eaves of the proposed side extensions would exceed the height of the eaves of the existing dwellinghouse, and therefore, would fail to comply with Schedule 2, Part 1, Class A, A.1(d) of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.
2. The proposed side extensions would join onto to an existing enlargement of the original dwellinghouse, and therefore, would exceed the limits set out in Schedule 2, Part 1, Class A, A.1(e, j and ja) of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.
3. The cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than 50 cubic metres, and therefore, fails to comply with Schedule 2, Part 1, Class B, B.1(d) of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.
4. The proposed outbuilding, by virtue of its size and the scale and extent of the facilities it would accomodate, would not be reasonably required for a purpose incidental to the enjoyment of the dwellinghouse. Therefore, this aspect of the proposal would fail to comply with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.

REFUSED DRAWING NUMBERS

Plan Number	Revision Number	Details	Received Date
MC-R00-PR-100		Site Plan	15 November 2017
MC-R00-EX-101		Location Plan	20 November 2017
MC-R00-		Existing Plans	20 November 2017

EX-102 MC-R00- EX-103 MC-R00- EX-104 MC-R00- PR-102 MC-R00- PR-103 MC-R00- PR-104 MC-R00- PR-105	Existing Elevations Existing 3D Views Proposed Floor Plans Proposed Elevations Proposed 3D Views Proposed Outbuilding	20 November 2017 20 November 2017 20 November 2017 20 November 2017 20 November 2017 20 November 2017
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Determined By:

Mr Chris Carter
15 January 2018