

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

DELEGATED APPLICATION

Application No: 6/2020/0723/LAWP
Location: 44 Vineyards Road Northaw Potters Bar EN6 4PA
Proposal: Certificate of lawfulness for the erection of an outbuilding to be used as a fitness studio and adjoining games and sitting room.
Officer: Mr Antoine Commenville

Recommendation: Refused

6/2020/0723/LAWP

Context		
Application Description	Certificate of lawfulness for the erection of an outbuilding to be used as a fitness studio and adjoining games and sitting room.	
Relevant planning History	None relevant.	
The main issues are:		
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		
	Yes / No	To be PD
Is the property a dwellinghouse	Y	Y
Have permitted development rights been removed	N	N
Is it within a conservation area	N	
Is the proposed use incidental to the use of the dwellinghouse	Y	Y
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 ¹ 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.	Y	Y
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, N, P, PA or Q of Part 3	N	N
(b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would	N	N

¹ "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

exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);		
(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;	Y	N
(f) the height of the eaves of the building would exceed 2.5 metres;	Y	N
(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;	N	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	N
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.	N/A	N
Conclusion		
<p>The proposed outbuilding would be located within 2m of the boundary of the curtilage of the dwellinghouse and would exceed 2.5m in height contrary to paragraph E.1(e)(ii) of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.</p> <p>The height of eaves would exceed 2.5m contrary to paragraph E.1(f) of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.</p>		

Reasons for Refusal:

1. The outbuilding would exceed 2.5m in height and would be located within 2m of the boundary of the curtilage of the dwellinghouse. As such, the development would not comply with Schedule 2, Part 1, Class E.1 (e)(ii) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended). Planning permission is therefore required.
2. The height of eaves of the outbuilding would exceed 2.5m. As such the development would not comply with Schedule 2, Part 1, Class E.1 (f) of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended. Planning permission is therefore required.

REFUSED DRAWING NUMBERS

3.

Plan Number	Revision Number	Details	Received Date
Location Plan		Location Plan	23 March 2020
Block Plan		Block Plan	23 March 2020
2012002		Proposed Floor Plans and Elevations	24 March 2020

Determined By:

Mr Jonathan Murray
18 May 2020