

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

**DELEGATED APPLICATION**

**Application No:** 6/2020/3010/LAWE  
**Location:** 51 Kentish Lane Hatfield AL9 6NG  
**Proposal:** Certificate of lawfulness for the existing outbuilding  
**Officer:** Ms Lois-May Chapman

**Recommendation:** Refused

6/2020/3010/LAWE

Context		
Application Description	Certificate of lawfulness for the existing outbuilding	
Relevant planning History	<p>Application Number: S6/2010/0691/LU            Decision: Refused            Decision Date: 18 May 2010            Proposal: Certificate of Lawfulness for proposing to raise the height of roof</p> <p>Application Number: S6/2010/1121/LU            Decision: Refused            Decision Date: 12 July 2010            Proposal: Certificate of lawfulness for a proposal to raise the side roof</p> <p>Application Number: S6/2010/2901/LU            Decision: Granted            Decision Date: 13 December 2010            Proposal: Certificate of Lawfulness for raising of side roof to same level of main roof</p> <p>Application Number: 6/2020/2399/PN16            Decision: Prior Approval Required and Refused            Decision Date: 12 November 2020            Proposal: Prior Approval for temporary use of the site (both the house and garden) for commercial film-making for no more than 9 months in any 27 month period.</p>	
<b>The main issues are:</b>		
<b>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</b>		
	<b>Yes / No</b>	<b>To be PD</b>
Is the property a dwellinghouse	<b>Y</b>	<b>Y</b>
Have permitted development rights been removed	<b>N</b>	<b>N</b>
Is it within a conservation area	<b>N</b>	
Is the proposed use incidental to the use of the dwellinghouse	<b>N/A</b>	<b>Y</b>
<b>E. The provision within the curtilage of the dwellinghouse of—</b>		
(a) any building or enclosure, swimming or other pool required for a purpose	<b>N</b>	<b>N</b>

incidental to the enjoyment of the dwellinghouse <sup>1</sup> 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.		
<b>Development not permitted</b>		
<b>E.1 Development is not permitted by Class E if—</b>		
(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	<b>N</b>	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);	<b>N</b>	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;	<b>N</b>	N
(d) the building would have more than a single storey;	<b>N</b>	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;	<b>Y</b> -2.9m in height within 2m bounda ry	N
(f) the height of the eaves of the building would exceed 2.5 metres;	<b>Y</b> - 2.9m	N
(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;	<b>N</b>	N
(h) it would include the construction or provision of a verandah, balcony or raised platform;	<b>Y</b>	N
(i) it relates to a dwelling or a microwave antenna; or	<b>N</b>	N
(j) the capacity of the container would exceed 3,500 litres.	<b>N</b>	N
<b>E.2 deliberately excluded</b>		
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.	<b>N</b>	N
<b>Discussion</b>		
<p>It is noted that the application refers to a proposed outbuilding, however, council records show the building to be existing. The existing building has the height of 3.5m within 2m boundary this, therefore, fails to be classed as 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>The works changed the material ground level beyond work that could be considered de minimis or come within any definition of permitted development, but can reasonably be defined as engineering works which require planning permission in accordance with Section 55(1) of the Town and Country Planning Act 1990.</p> <p>The outbuilding is consists of a series of connected elements that are varied in size, the part of the outbuilding closest to the boundary measures at 3.5m in height. The lowest part of the outbuilding measures 2.9m in height failing to comply with paragraph E.1 (e). The eaves also exceed 2.5m in height failing to comply with E.1 (f).</p>		

<sup>1</sup> "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

The outbuilding includes the provision of a verandah which fails to comply with E.1 (h).

The cover letter indicates that the outbuilding has been used as an art gallery, however once extended, its footprint is a similar size to the dwelling house. The applicant has not provided further explanation as to why this significantly large outbuilding is reasonably required for the incidental enjoyment of the dwellinghouse. The submitted drawings do not identify the layout of the gallery nor any indication of what it may look like once paintings are installed. The overall scale of the development is considered to be excessive and exceeds what may be reasonably considered as incidental to the enjoyment of the dwellinghouse. Although the activities designated on the plans of the new building fall into categories that, individually, may be acceptable as incidental to the enjoyment of the dwelling house, taken together they occupy an unreasonable amount of space. Thus as a matter of fact and degree, the proposal does not come within the terms of Class E of Part 1 of GPDO.

### **Conclusion**

The proposed outbuilding is not 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.

### **Reasons for Refusal:**

1. The proposed outbuilding is not 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.

### **REFUSED DRAWING NUMBERS**

2.

<b>Plan Number</b>	<b>Revision Number</b>	<b>Details</b>	<b>Received Date</b>
TDC068/PL/200		Proposed Roof and Floor Plans	18 November 2020
TDC068/PL/001		Site Location Plan and Site Plan	18 November 2020
TDC068/PL/300		Existing and Proposed Elevations	18 November 2020
TDC068/PL/100		Existing Roof and Floor Plans	18 November 2020

### **Determined By:**

Mr Mark Peacock  
11 January 2021