

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

DELEGATED APPLICATION

Application No: 6/2021/0593/LAWP
Location: 36 Vineyards Road Northaw Potters Bar EN6 4PA
Proposal: Certificate of lawfulness for the erection of two storey rear extension
Officer: Ms Louise Sahlke

Recommendation: Refused

6/2021/0593/LAWP

Context	
Application Description	<p>The application site comprises a two storey detached dwellinghouse and its curtilage.</p> <p>The applicant seeks a certificate of lawfulness for the erection of a two storey rear extension. The submitted drawings include a Juliet balcony, swimming pool, various hard landscaping, external alterations to windows and doors and removal of chimney.</p>
Relevant Planning History	<p>Application Number: S6/1982/0422/ Decision: Granted Decision Date: 22 September 1982 Proposal: Two storey and single storey extensions</p> <p>Application Number: S6/1985/0592/FP Decision: Granted Decision Date: 24 October 1985 Proposal: Ground and first floor side extension</p> <p>Application Number: S6/1986/0672/FP Decision: Granted Decision Date: 20 November 1986 Proposal: First floor side extension</p> <p>Application Number: S6/1990/0381/FP Decision: Granted Decision Date: 18 June 1990 Proposal: Single storey side extension, single storey rear kitchen extension and first floor side extension</p> <p>Application Number: S6/1992/0141/FP Decision: Granted Decision Date: 27 April 1992 Proposal: First floor front extension</p> <p>Application Number: S6/1993/0456/FP Decision: Granted Decision Date: 04 October 1993 Proposal: Erection of first floor extension to bedroom over new porch</p>

	<p>Application Number: S6/1999/0189/FP Decision: Granted Decision Date: 26 April 1999 Proposal: Erection of single storey rear extension to form granny annexe</p> <p>Application Number: S6/2000/1207/FP Decision: Refused Decision Date: 27 November 2000 Proposal: Erection of a two storey rear extension</p> <p>Application Number: 6/2017/1973/HOUSE Decision: Refused Decision Date: 13 November 2017 Proposal: Erection of a single storey double garage, single storey side and rear extension, first floor side extension, rear roof terrace at first floor, external terrace/patio and erection of an outbuilding for use as a poolhouse and gym to rear. Installation of 3 front windows to facilitate garage conversion, installation of front door, removal of existing chimney, raise front gable end roof and installation of 1 rear double height dormer window to facilitate loft conversion to habitable space.</p> <p>Application Number: 6/2020/1681/HOUSE Decision: Refused Decision Date: 07 September 2020 Proposal: Erection of first floor extension over existing garage, removal of existing chimney, alterations to fenestration, enlargement of existing outbuilding and creation of swimming pool and terrace area.</p> <p>Application Number: 6/2020/3402/HOUSE Decision: Withdrawn Decision Date: 16 February 2021 Proposal: Two storey rear extension.</p>
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The main issues are:

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.

	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?	N	
Is it within a conservation area	N	N
A.1 Development is not permitted by Class A if—		
(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use);	N/A	N
(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	N	N

dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);		
(c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse	N	N
(d) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;	N	N
(e) the enlarged part of the dwellinghouse would 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;	N/A	N
(f) 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;	Y	N
(g) for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, 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 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or (ii) exceed 4 metres in height;	Y	N/A
(h) the enlarged part of the dwellinghouse would have more than a single 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 being enlarged which is opposite the rear wall of that dwellinghouse;	Y	N
(i) the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;	Y As shown on the site plan	N
(j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would— (i) exceed 4 metres in height, (ii) have more than a single storey, or (iii) have a width greater than half the width of the original dwellinghouse;	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 verandah, 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 The raised platform is not located on the proposed rear extension	N
(l) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).	N	N
A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A 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/A
(b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or	N/A	N/A
(c) the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.	N/A	N/A
(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	N/A
Conditions		
A.3 Development is permitted by Class A subject to the following conditions—		
(a) the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;	N	N
(b) any upper-floor window located in 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; and	N/A	N/A
(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

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.	N	N
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 or Q of Part 3	N/A	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	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

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/A	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/A	N
(f) the height of the eaves of the building would exceed 2.5 metres;	N/A	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;	Y	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	N
Whether the proposed works are permitted development by virtue of Schedule 2, Part 1, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended?		
	Yes/No	To be PD
G.1 (a) Has permission to use the dwellinghouse as a dwellinghouse been granted only by virtue of Class M, N, P or Q of Part 3;	N/A	N
(b) the height of the chimney, flue or soil and vent pipe would exceed the highest part of the roof by 1 metre or more; or	N	N
(c) in the case of a dwellinghouse on article 2(3) land, the chimney, flue or soil and vent pipe would be installed on a wall or roof slope which— (i) fronts a highway, and (ii) forms either the principal elevation or a side elevation of the dwellinghouse.	N	N
Conclusion		
<p>The proposed development would fail to satisfy the criteria at Schedule 2, Part 1, Class A.3 (a) of the General Permitted Development Order 2015 (or as amended) as insufficient details have been submitted as part of this certificate of lawfulness (proposed) to demonstrate that 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.</p> <p>The proposed development as shown on drawing number 20-13-05 would fail to satisfy the criteria at Schedule 2, Part 1, Class A.1 (i) of the General Permitted Development Order 2015 (or as amended)</p>		

as the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres.

The proposed development would fail to satisfy the criteria at Schedule 2, Part 1, Class E.1 (h) of the General Permitted Development Order 2015 (or as amended) as drawing number 20-13-05 demonstrates a terrace and steps to the rear and side of the existing dwelling which could be counted as a raised platform. No details on the height of this terrace/steps have been provided.

The proposed development would fail to satisfy the criteria at Schedule 2, Part 1, Class A.1 (h) of the General Permitted Development Order 2015 (or as amended) as the enlarged part of the dwellinghouse would not extend from the original dwellinghouse.

As such, the existing and proposed extensions being the 'total enlargement' are assessed under subparagraphs (e) to (j). As such, the total enlargement would be:

(f) more than one storey and exceed 4m in height;

(g) more than 4m in height;

(h) have more than one storey and extend beyond the rear wall by more than 3m; and

(j) would extend beyond a wall forming a side elevation and exceed 4m in height, have more than one storey and have a width greater than half the width of the original dwellinghouse.

Part (ja) of Class A states that the development is not permitted under Class A where 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 subparagraphs (f) to (j). In this instance, it is understood that the proposal would fail to comply with subparagraphs (f), (g), (h) and (j).

Under planning application s6/1986/0672/FP, a planning application was granted for a first floor side extension. On the plans, it is demonstrated that the location to which the proposed two storey rear extension would attach is an extension to the original dwelling.

Furthermore, the proposed rear extension would also attach to the projecting roof (an extension to the original dwellinghouse) as demonstrated on the submitted plans which adjoins the utility room extension (s6/1986/0672/FP).

Reasons for Refusal:

1. The proposed development would fail to satisfy the criteria at Schedule 2, Part 1, Class A.3 (a) of the General Permitted Development Order 2015 (or as amended) as insufficient details have been submitted as part of this certificate of lawfulness (proposed) to demonstrate that 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.
2. The proposed development as shown on drawing number 20-13-05 would fail to satisfy the criteria at Schedule 2, Part 1, Class A.1 (i) of the General Permitted Development Order 2015 (or as amended) as the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres.
3. The proposed development would fail to satisfy the criteria at Schedule 2, Part 1, Class E.1 (h) of the General Permitted Development Order 2015 (or as amended) as drawing number 20-13-05 demonstrates a terrace and steps to the rear and side

of the existing dwelling which could be counted as a raised platform. No details on the height of this terrace/steps have been provided.

4. The proposed development would fail to satisfy the criteria at Schedule 2, Part 1, Class A.1 (h) of the General Permitted Development Order 2015 (or as amended) as the enlarged part of the dwellinghouse would not extend from the original dwellinghouse.
5. As such, the existing and proposed extensions being the 'total enlargement' are assessed under subparagraphs (e) to (j). As such, the total enlargement would be:
 - (f) more than one storey and exceed 4m in height;
 - (g) more than 4m in height;
 - (h) have more than one storey and extend beyond the rear wall by more than 3m; and
 - (j) would extend beyond a wall forming a side elevation and exceed 4m in height, have more than one storey and have a width greater than half the width of the original dwellinghouse.

Part (ja) of Class A states that the development is not permitted under Class A where 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 (f) to (j). In this instance, it is understood that the proposal would fail to comply with sub paragraphs (f), (g), (h) and (j).

REFUSED DRAWING NUMBERS

6.

Plan Number	Revision Number	Details	Received Date
20-13-05		Proposed Site & Location Plan	24 February 2021
20-13-10		Proposed Elevations 11	1 March 2021
20-13-09		Proposed Elevations 1	24 February 2021
20-13-06		Existing Elevations	24 February 2021
20-13-04		Proposed Floor Plans	24 February 2021
20-13-07		Existing Floor Plans	24 February 2021

Determined By:

Mr Mark Peacock
23 April 2021