

**WELWYN HATFIELD BOROUGH COUNCIL
ASSISTANT DIRECTOR (PLANNING)**

DELEGATED APPLICATION

Application No: 6/2023/0900/LAWP
Location: Sandpit Lodge Bedwell Avenue Hatfield AL9 6HN
Proposal: Certificate of lawfulness for a proposed single-storey rear extension, single-storey side extension and single-storey basement underneath the original dwellinghouse and erection of single-storey outbuilding
Officer: Mrs Kerrie Charles

Recommendation: Refused

6/2023/0900/LAWP

Context		
Application Description	<p>This application is for a Certificate of Lawful Development for a proposed single-storey rear extension, single-storey side extension and single-storey basement underneath the original dwellinghouse and erection of single-storey outbuilding</p> <p>The application is mostly located within East Herts Council boundary, however the application has been submitted into Welwyn Hatfield Borough Council as part of the site falls within our boundary.</p> <p>The application site is made up of a detached dwelling located within Hertford. Sandpit Lodge is located within the extensive estate of the Essendon Golf and Country Club located within the rural area of the Essendon village. The site is located within the Metropolitan Green Belt, is subject to a Tree Preservation Order and is also located within Flood Zone 1.</p>	
Relevant planning History	<p>Planning application submitted to East Herts Council:</p> <p>Reference 3/10/1977/FP Description: two storey front and single storey side extensions. Raising of roof ridge height with dormer windows to house. Decision: Granted Decision Date: 3rd March 2011.</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>		
	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	
(a) Has 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	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		N
(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	N	N
(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
(g) is the development outside of article 2(3) land (conservation area) or outside of a site of special scientific interest	Y	Y
(g) cont_ would it have a single storey (previous extensions to the rear need to be taken into account)		
(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	N/A	
(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 being enlarged which is opposite the rear wall of that 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	N	N

of the 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	N	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);	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.	N/A	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	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

<p>maintenance, improvement or other alteration of such a building or enclosure; or</p> <p>(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas.</p>		
<p>Development not permitted</p> <p>E.1 Development is not permitted by Class E if—</p>		
(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 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—	N	N
(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;		
(f) the height of the eaves of the building would exceed 2.5 metres;	N	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
Discussion		
<p><u>Basement</u></p> <p>The GDPO is silent in regard to the creation of basements as there is nothing within the body of legislative text to indicate that basements are permitted development. Nonetheless, the creation of basements would constitute engineering operation from excavation of materials.</p> <p>While officers acknowledge the inspector's appeal decision referenced by the applicant within their supporting Planning Statement, the LPA refers to case law delivered in the High Court on 2 December in the case of Eatherley v. Camden LBC [2016] that noted there may be practical limitations on such basement developments. It summarised that engineering operations for basement proposals are at some point different in character to those involved in the preparation of foundation for a dwellinghouse. It is accepted that if there was already a basement or subterranean footprint beneath the dwelling in question</p>		

this could possibly adhere to Schedule 2 Part 1 Class A of the GDPO. However, the lack of a basement would result in: 1) the enlargement, improvement and alteration aspect as well as 2) the engineering aspect of excavating a space and supporting a house as one is indivisible from the other. As such this separate aspect would require planning permission.

Outbuilding

In regards to the proposed outbuilding. The host dwelling has a total footprint of approx. 72.9sqm (original) 80sqm (with conservatory), the proposed outbuilding would have a footprint of approx.80sqm. Consequently, it is considered the proposed outbuilding exceeds what may be reasonably considered as incidental to the enjoyment of the host dwelling. The proposed building would have a footprint greater than that of the original dwelling and would be of the same footprint of the existing dwelling (with conservatory).

Although the activities designated on the proposed plans of the proposed outbuilding fall into the categories that individually may be acceptable as incidental to the enjoyment of the dwellinghouse, taken together they occupy an unreasonable amount of space. In the matter of fact and degree the proposal would not come within the terms of Schedule 2 Part 1 Class E of the GPDO (as amended).

As such, it is considered that due to the total footprint to be created by the proposed outbuilding it would not be deemed incidental to the main dwelling, especially not in comparison to the original size of the dwelling. Therefore, such a proposal is not considered to be incidental to the enjoyment of the dwellinghouse This element of the proposal would not be incidental to the enjoyment of the dwelling contrary to Part 1 Class E (a) of the GPDO.

Conclusion

The proposed basement is contrary to Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Planning Permission is therefore required.

The proposed outbuilding is not considered to be incidental to the enjoyment of the dwellinghouse This element of the proposal would not be incidental to the enjoyment of the dwelling contrary to Part 1 Class E (a) of the GPDO, therefore Planning Permission will be required.

Reasons for Refusal:

1. The proposed basement is contrary to Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Planning Permission is therefore required.
2. The proposed outbuilding is contrary to Schedule 2, Part 1, Class E (a) 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
1711/PD04		Existing Ground Floor Plan	27 April 2023
1711/PD05		Existing First Floor Plan	27 April 2023
1711/PD06		Existing Roof Plan	27 April 2023
1711/PD07		Existing Front Elevation (West)	27 April 2023
1711/PD08		Existing Side Elevation (South)	27 April 2023
1711/PD09		Existing Rear Elevation (East)	27 April 2023
1711/PD10		Existing Side Elevation (North)	27 April 2023
1711/PD11		Proposed Site Plan	27 April 2023
1711/PD12		Proposed Basement Plan	27 April 2023
1711/PD13		Proposed Ground Floor Plan	27 April 2023
1711/PD14		Proposed First Floor Plan	27 April 2023
1711/PD15		Proposed Roof Plan	27 April 2023
1711/PD01	A	Location Plan	27 April 2023
1711/PD02		1:1250 Location Plan	27 April 2023
1711/PD03		Existing Site Plan	27 April 2023
1711/PD23	A	South West Overview	27 April 2023
1711/PD24	A	South East Overview	27 April 2023
1711/PD20		Proposed Outbuilding	27 April 2023
1711/PD21	A	Site Overview	27 April 2023
1711/PD16		Proposed Front Elevation (West)	27 April 2023
1711/PD17		Proposed Side Elevation (South)	27 April 2023
1711/PD18		Proposed Rear Elevation (East)	27 April 2023
1711/PD19		Proposed Side Elevation (North)	27 April 2023
1711/PD25	A	North East Overview	27 April 2023

1711/PD26	A	Outbuilding Overview	27 April 2023
1711/PD27		Area Schedule	27 April 2023
1711/PD22	A	North West Overview	27 April 2023

Determined By:

Mr Mark Peacock
10 July 2023