

DELEGATED DECISION

- Please select each of the categories that enables this application to be determined under delegated powers
 - Criteria 1 to 5 or criteria 7 to 9 must be addressed for all categories of application, except for applications for Certificates of Lawfulness, etc.

APPROVAL RECOMMENDED: GENERAL

Select an Option

1.	No valid planning application objection in the form of a petition of 20 or more signatures, has been received	☐
2.	Application complies with all relevant planning policies and is acceptable on planning grounds	☐
3.	There is no Committee resolution for the enforcement action	☐
4.	There is no effect on listed buildings or their settings	☐
5.	The site is not in the Green Belt (but see 11 below)	☐

REFUSAL RECOMMENDED: GENERAL

6.	Application is contrary to relevant planning policies/standards	☐
7.	No petition of 20 or more signatures has been received	☐
8.	Application has not been supported independently by a person/s	☐
9.	The site is not in Green Belt (but see 11 below)	☐

RESIDENTIAL DEVELOPMENT

10.	Single dwelling or less than 10 dwelling units and/or a site of less than 0.5 ha	☐
11.	Householder application in the Green Belt	☐

COMMERCIAL, INDUSTRIAL AND RETAIL DEVELOPMENT

12.	Change of use of retail units on site less than 1 ha or with less than 1000 sq. m other than a change involving a loss of A1 uses	☐
13.	Refusal of change of use from retail class A1 to any other use	☐
14.	Change of use of industrial units on site less than 1 ha or with less than 1000sq.m. of floor space other than to a retail use.	☐

CERTIFICATE OF LAWFULNESS

15.	Certificate of Lawfulness (for proposed use or Development)	☐
16.	Certificate of Lawfulness (for existing use or Development)	☐
17.	Certificate of Appropriate Alternative Development	☐

CERTIFICATE OF LAWFULNESS

18.	ADVERTISMENT CONSENT (excluding Hoardings)	☐
19.	PRIOR APPROVAL APPLICATION	☐
20.	OUT-OF-BOROUGH OBSERVATIONS	☐
21.	CIRCULAR 18/84 APPLICATION	☐
22.	CORPSEWOOD COVENANT APPLICATION	☐
23.	APPROVAL OF DETAILS	☐
24.	ANCILLARY PLANNING AGREEMENT (S.106 or S.278) where the Heads of Terms have already received Committee approval	☐
25.	WORKS TO TREES	☐
26.	OTHER (please specify)	☐

The delegation powers schedule has been changed. Interim Director of Planning, Regeneration & Public Realm can determine this application

Case Officer:

Signature:

Date:

A delegated decision is appropriate and the recommendation, conditions/reasons for refusal and informative's are satisfactory.

Team Manager:

Signature:

Date:

The decision notice for this application can be issued.

Director / Member of Senior Management Team:

Signature:

Date:

NONE OF THE ABOVE DETAILS SHOULD BE USED IN THE PS2 RETURNS ODPM

Report of the Head of Development Management and Building Control

Address: 48 GOULDS GREEN HILLINGDON

Development: Existing use of outbuilding as a self-contained flat (Application for a Certificate of Lawful Development for an Existing Use)

LBH Ref Nos: 70466/APP/2022/3247

Drawing Nos: Statutory Declaration- 1.
location plan
Statutory Declaration 3
Statutory Declaration 2

Date Plans received: 24-10-22 **Date(s) of Amendments(s):**

Date Application valid 24-10-22

1. RECOMMENDATIONS

1.1 Recommendations

That a certificate of lawful use or development be **REFUSED** for the existing development described above in respect of the land edged red on the attached plans for the following reasons:

The existing development does not constitute Lawful Development under Section 191 of Town and Country Planning Act 1990, as amended by Section 10 of the Planning and Compensation Act 1991 as the Applicant has not demonstrated that, on the balance of probabilities, the use has existed and been continuous for at least a period of four years, prior to the date of this application.

This determination is based on your submitted plans. All measurements are taken from existing ground level.

INFORMATIVES

2.0 APPRAISAL OF EVIDENCE SUBMITTED

In order for a Lawful Development Certificate to be granted under Section 191 of the Town and Country Planning Act 1990, the burden of providing relevant facts rests on the applicant, and the test of the evidence is the balance of probability. If there is no evidence to contradict or make the applicant's version of events less than probable and the applicant's evidence alone is sufficiently precise and unambiguous, a Lawful Development Certificate should be granted.

The applicant has to show, on the balance of probabilities, that the single storey outbuilding erected under planning application 70466/APP/2014/4213, for the use as a gym has been continuously used as a self contained accommodation for four years prior to the date of the application. Accordingly, the use must have commenced on or before 24-10-18 and continued throughout the four year period until 28-5-22.

Assessment:

The applicant alleges the outbuilding has been in continuous use for over 4 years since 27.04.2016. The application is dated 24-10-22, and the relevant 4-year period for consideration is from towards the end of October 2018.

In his statutory declaration, the Applicant confirms that the construction of the outbuilding, which is the subject of the application, was commenced around March 2015. Numerous invoices were submitted, evidencing the purchase of building materials, with most of them showing "48 Goulds Green" as the delivery address. A signed Building Work Agreement (dated February/March 2015) was also provided, confirming that the outbuilding was to be constructed at the rear of application site.

It is also confirmed within the applicant's statutory declaration that since April 2016, the outbuilding has been used as a single dwelling. Other statutory declarations provided in support of the application state that the outbuilding was used independently by the applicant, with former occupants confirming their occupation of the outbuilding between October 2018 and November 2019 and for brief periods in 2020.

The Tenancy Agreements and rent receipts submitted cover majority of the 4-year period, but the occupancy details re the outbuilding, for the period between May to September 2018 is unclear. This is ambiguous for the purposes of the certificate.

The Council Tax records provided along with the letters from the Valuation Office Agency refer to the "Annexe r/o 48 Goulds Green" and confirm that the outbuilding is self-contained. This evidence, though helpful, does not by itself show continuous use as an independent dwelling for the relevant period. It is noted that there were certain periods when the Council Tax was in arrears.

Taken together, the evidence provided indicates that the outbuilding has been used as a self-contained dwelling. However, in order to meet the test, the use must be continuous for the stated 4-year period. It fails to do this.

Further, in assessing the application, the Council's Planning Enforcement Team were also consulted, as the site has been subject to investigation within the last 4 years, with respect to the use of the outbuilding.

On 29th September 2020, a planning contravention notice (PCN) was issued to the freeholders under section 171C of the Town and Country Planning Act 1990 to gain more information as to what is happening at this property after a report was received on 15th September 2020, stating that the outbuilding at the end of the garden is being rented out separately to the main house.

The PCN dated 20th October 2020 was returned by the freeholder and stated that the current use of the outbuilding was a gym/storage/home office, and the use of the outbuilding is NOT separate from the main house.

On 9th July 2021, an inspection of the outbuilding by a Planning Enforcement Officer, that was facilitated by the then owner, established the outbuilding was un-occupied.

Whilst the applicant has provided some evidence in support of their application, there is insufficient evidence to demonstrate that the period of continuous four years of self contained use has been met. In addition, significant weight must be given to the contradictory evidence that has been provided in the Planning Contravention Notice to the Council, by the Freeholder.

In the evidence provided, the applicant has put forward the argument that as they lived in the building themselves during a period when their family relationship broke down between themselves and their partner in 2016, which they consider to be the start of the four year period. Considerable doubt is placed on this assertion, given the investigation carried out by Planning Enforcement and the PCN returned by the Freeholder in 2020.

Nevertheless, in such a situation where living facilities such as the kitchen were being shared with the main dwellinghouse, it is considered that this would not constitute an independent dwelling and the outbuilding still ancillary to the main dwellinghouse. The unit was not self-contained and could not have undergone a material change of use to a separate dwelling.

It is considered that insufficient precision and unambiguity has been shown to demonstrate, on the balance of probabilities, the claim that the outbuilding which was originally approved under planning application for planning application 70466/APP/2014/4213 has been continuously used as a self-contained residential unit for four years prior to the date of the application.

A recent certificate of lawful development was refused on 25-08-22. Whilst this application contains greater information, the initial discrepancies and contradictions regarding the PCN and site visit undertaken by Planning Enforcement have not been addressed.

It is therefore recommended that this application be refused.

3.0 Relevant Planning History

70466/APP/2022/1757 48 Annexe Rear Of GOULDS GREENHILLINGDON

Existing use of outbuilding as separate accommodation (Application for a Certificate of Lawful Development for an Existing Use)

Decision Date: 25-08-2022 Refused

ENF/608/20

Without planning permission, the material change of use of an outbuilding to a separate self-contained residential unit.

Decision Date:

Contact Officer: Hardev Gill

Telephone No: 01895 250230