

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 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. ADVERTISEMENT 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 Heads of Terms have already received Committee approval ☐
25. WORKS TO TREES ☐
26. OTHER (please specify) ☐

The delegation powers schedule has been checked. Director of Residents Services can determine this application.

Case Officer

Signature:

Date:

A delegated decision is appropriate and the recommendation, conditions/reasons for refusal and informatives 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 DATES SHOULD BE USED IN THE PS2 RETURNS TO THE ODPM

Report of the Head of Planning, Transportation and Regeneration

Address 31 ST EDMUNDS AVENUE RUISLIP

Development: Demolition of existing garage and erection of outbuilding including a decking area to rear garden (Application for a Certificate of Lawful Development for an Existing Development)

LBH Ref Nos: **58245/APP/2021/4066**

Drawing Nos: A-HA-031-PL-150 Rev.01
A-HA-031-BP-002 Rev. 01
A-HA-031-PL-100 Rev. 01 (received on 03.12.2021)
A-HA-031-SL-001 Rev. 00
A-HA-031-PL-151 Rev. 01

Date Plans Received: 03/11/2021 **Date(s) of Amendment(s):**

Date Application Valid: 03/11/2021

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 permitted development by virtue of the provisions of Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) because it has not been demonstrated, on the balance of probabilities, that the size and function of the constructed outbuilding is reasonably required for purposes incidental to the enjoyment of the dwellinghouse.

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

The existing development does not constitute permitted development by virtue of the provisions of E.1 (e) (ii) and (f), Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) because insufficient evidence has been provided to demonstrate that the constructed outbuilding does not have a maximum height and eaves height exceeding 2.5 metres.

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

The existing development does not constitute permitted development by virtue of the provisions of E.1 (h), Class E and provision A.1 (k) (i), Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) because insufficient evidence has been provided to demonstrate that the

decking area adjacent to the constructed outbuilding would not constitute as a raised platform.

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

INFORMATIVES

2.0 APPRAISAL OF EVIDENCE SUBMITTED

The application seeks a certificate of lawful development for an existing development for an outbuilding (including a decking area) to the rear of the property.

The property is not a listed building and is not within a Designated Conservation Area. There are no pre-existing conditions which remove permitted development rights.

Assessment of this application:

Whether the purpose of the outbuilding is incidental to the enjoyment of the dwellinghouse, and if so, is the outbuilding reasonably required for that purpose?

The main planning consideration is whether the proposed development constitutes permitted development by virtue of the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

In this case, the constructed outbuilding measures approximately 14 metres in length and 4 metres in depth. It has a footprint of approximately 56 square metres, which equates to 65% of the original ground floor footprint of the host property. As such, it is considered that the size of the outbuilding is not commensurate to the size of the dwellinghouse. Notwithstanding this, it is noted that the size of an outbuilding is not, in itself, determinative of whether a development falls within the provision of Class E. It is also necessary to look at the function of the space within the outbuilding and determine whether the outbuilding is reasonably required for a purpose incidental to the enjoyment of the dwelling.

In this case, the submitted plans show that the outbuilding contains a spa, bar/gym (including a kitchenette) and a garden tools store. However, no details have been provided to explain why such facilities are required in connection with the host dwelling. The burden of proof rests with the applicant and the appropriate test of evidence is the balance of probabilities. In this particular case, apart from the labelling of the outbuilding for a variety of uses, no further information has been provided. Consequently, on the evidence available, it is considered, as a matter of fact and degree, that it has not been demonstrated that on the balance of probabilities the constructed outbuilding is reasonably required for purposes incidental to the enjoyment of the dwellinghouse.

As such, having regard to the conditions and limitations, the constructed outbuilding is not considered to be permitted by Article 3, Schedule 2, Part 1, Class E of the GPDO.

Whether the height of the outbuilding exceed 2.5 metres within 2 metres of the boundary of the curtilage of the dwellinghouse ? And whether the height of the eaves of the outbuilding would exceed 2.5 metres?

The DCLG Permitted development rights for householders Technical Guidance states that "references to height (for example, the heights of the eaves on a house extension) is the height measured from ground level. (Note, ground level is the surface of the ground

immediately adjacent to the building in question, and would not include any addition laid on top of the ground such as decking. Where ground level is not uniform (for example if the ground is sloping), then the ground level is the highest part of the surface of the ground next to the building.)"

In this case, the submitted drawings shows constructed outbuilding is positioned along mutual boundary shared with No. 33. The annotations on the drawings indicate that the outbuilding has a maximum height of 2.5 metres. However, it is not clear from the submitted drawings as to whether the existing ground level, is as a matter of fact and degree, the natural ground level of the site. From reviewing the notes and photographs submitted by the enforcement officer who conducted the original site visit, it is clear that the properties in this section of St. Edmunds Avenue have a natural decline from west to east. The officer site photographs (enforcement report) also shows that the ground levels at the site have been altered. There is therefore ambiguity in respect to the maximum height and eaves height of the constructed outbuilding in relation to the natural ground level of the site.

Having regard to the above, it is considered that the submitted information does not conclusively show that the outbuilding complies with provision E.1 (e)(ii) and (f), Class E, Part 2, Schedule 2 of the GPDO, in respect to its maximum height and eaves height.

Whether the proposal would involve a raised platform?

The DCLG Permitted development rights for householders Technical Guidance states that "A raised platform is defined in the 'General Issues' section of this document, as any platform that has a height of more than 0.3 metres (see page 6). Garden decking will therefore be permitted development under Class E subject to it not exceeding this 0.3m height limit and subject to the other limits and conditions under this Class."

The floor plan shows a decking area running across the full width of the constructed outbuilding. The submitted drawings indicate that this decking area has a height of 10 cm. However, as stated in the preceding paragraphs, it is unclear whether the ground level shown on the submitted drawings, is as a matter of fact and degree, the natural ground level of the site. It is therefore considered that insufficient evidence has been submitted to conclusively demonstrate that the decking area would not constitute as a raised platform.

As such, the decking area is not considered permitted by provision E.1 (h), Class E, Part 1, Schedule 2 of the GPDO and provision A.1 (k)(i), Class A, Part 1, Schedule 2 of the GPDO.

For the reasons set out in this report, is recommended that this application be refused.

Other matters:

It is noted that the submitted drawings shows the constructed single storey rear extension and roof extension which have not been built in accordance with the approved planning consent. This alleged breach is currently being investigated by the Enforcement Department. This certificate of lawful application is solely for the assessment of the constructed outbuilding and decking area.

3.0 Relevant Planning History

58245/APP/2003/755

31 St Edmunds Avenue Ruislip

ERECTION OF A SINGLE STOREY REAR EXTENSION (INVOLVING DEMOLITION OF EXISTING CONSERVATORY)

Decision Date: 07-10-2003 Approved

58245/APP/2020/2353 31 St Edmunds Avenue Ruislip

Single storey rear extension and conversion of roof space to habitable use to include 2 front dormers, 1 rear dormer and conversion of roof from hip to gable end

Decision Date: 22-09-2020 Approved

58245/APP/2021/4331 31 St Edmunds Avenue Ruislip

Conversion of roof space to habitable use to include a rear dormer roof extension and 1 front facing roof light (Application for a Certificate of Lawful Development for a Proposed Development).

Decision Date: 20-01-2022 Approved

4.0 ALL CLASSES

Is the dwelling a flat or a maisonette?
NO

Is there a planning condition removing permitted development rights?
NO

Is the building listed/ in a Conservation Area?
NO

CLASS E - Outbuildings

Does the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)?
NO

Does 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?
NO

Does the building have more than one storey?
NO

Does the height of the building, enclosure or container 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?
REFER TO SECTION 2.0 OF THIS REPORT.

Does the height of the eaves of the building exceed 2.5 metres?
REFER TO SECTION 2.0 OF THIS REPORT.

Is the building, enclosure, pool or container situated within the curtilage of a listed building?
NO

Does it include the construction or provision of a veranda, balcony or raised platform (means a platform with a height greater than 300 millimetres)?

REFER TO SECTION 2.0 OF THIS REPORT.

Does it relate to a dwelling or a microwave antenna?
NO

Does the capacity of the container exceed 3,500 litres?
N/A

In the case of any land within the curtilage of the dwellinghouse which is article 1(5) 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

5.0 Other including Measurements

The total area of the building equates to 56 sqm (14m x 4m)
Total area of curtilage excluding original house = 401.79 sqm

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