

Your Ref: PP-11290995
Our Ref: HPD/AH/20/150
Date: 27 May 2022

London Borough of Hillingdon
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Dear Sir / Madam,

RE: APPLICATION FOR CERTIFICATE OF LAWFULNESS OF PROPOSED USE OR DEVELOPMENT

THE BUNGALOW AT WATERDELL FARM, SPRINGWELL LANE, HAREFIELD, UXBRIDGE UB9 6PG

On behalf of our client, Mr Harpreet Singh Grewal, please find enclosed an application for a Certificate of Lawfulness for a Proposed Use or Development (CLOPUD) in accordance with Section 192 of the Town and Country Planning Act 1990 (as Amended).

This application is seeking confirmation that the construction of 2no.single storey outbuildings within the curtilage of the Bungalow at Waterdell Farm, Springwell Lane, is lawful in accordance with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, such that planning permission would not be required for the work.

This statement sets out the background to the site before explaining how the proposed outbuildings are lawful under permitted development rights.

APPLICATION PACKAGE

The Lawful Development Certificate Submission comprises the following material:

- Duly completed application form;
- Site Location Plan at scale 1:1,250 with the site edged in red (Dwg. No. 787-000);
- Existing Ground Floor Plan (Dwg no. 787 – 010);
- Existing Roof Plan (Dwg no. 787 – 011);
- Existing Elevation 01 (Dwg no. 787 – 030);
- Existing Elevation 02 (Dwg no. 787 – 031);
- Proposed Site Plan (Dwg no. 787 – 001);
- Outbuildings Ground Floor Plan (Dwg no. 787 – 100);
- Outbuildings Roof Plan (Dwg no. 787 – 105);
- Proposed Elevations 01 (Dwg no. 787 – 132);
- Proposed Elevations 02 (Dwg no. 787 – 133);
- Proposed Elevations 03 (Dwg no. 787 – 134);
- CLOPUD Planning Letter (this document); and
- CIL Additional Information form.

The requisite application fee of £103 shall be paid immediately following submission of this application via Planning Portal.

SITE DESCRIPTION

The application site measures approximately 2,007 sqm and includes a single storey dwellinghouse (approx.. 141 sqm) and detached garage (approx. 25 sqm) located at Waterdell Farm, Springwell Lane, Harefield, in the London Borough of Hillingdon. The bungalow was constructed circa 1989 following the receipt of planning permission (LPA Ref: 39606/87/1215) for the following development:

Erection of 3 bed bungalow and detached garage at Waterdell Farm, Springwell Lane, Harefield.

The site is located within the Colne Valley Regional Park and in the Green Belt, but is not located within a conservation area or within the vicinity of any listed buildings. The site is located in Flood Risk Zone 1 and is, therefore, at the lowest risk of flooding.

The site is subject to a Borough-wide Article 4 Direction removing the right to extend a dwellinghouse at the rear by more than 4m in depth via Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). However, there are no Article 4 Directions in place which would prohibit the construction of an outbuilding under Class E of the GPDO.

The bungalow and application site historically formed part of the wider Waterdell Farm, but has been used separately and solely as a self-contained residential property for a period greater than 10 years. A separate access road for Waterdell Farm can be found immediately south of the site on Springwell Lane, which leads to a series of buildings, including former workshops, kennels, stable blocks and agricultural barns. Beyond Waterdell Farm, the surrounding area is predominately open fields interspersed with residential dwellings and commercial buildings.

Planning History

From a review of Hillingdon Council's online planning register, we are aware of the following planning applications related to the site:

LPA Reference	Proposal	Decision	Decision Date
39606/E/92/0095	Retention of mobile home for living accommodation (retrospective application)	Approve Limited Time	12/06/1992
39606/G/94/1610	Re-use of barn/stables for residential purposes	Refused	17/04/1998
39606/H/95/0706	Retention of a mobile home for living accommodation	No further action	19/02/1998
39606/J/97/0148	Retention of mobile home for living accommodation (retrospective application)	Refused	17/04/1998
39606/APP/2000/2685	CHANGE OF USE FROM AGRICULTURAL TO PADDOCK FOR DOG TRAINING ACTIVITIES (RETROSPECTIVE APPLICATION)	Approve Limited Time	25/07/2001
39606/APP/2002/1518	RENEWAL OF PLANNING PERMISSION REF. 39606/APP/2000/2685 DATED 25/07/2001; CHANGE OF USE FROM AGRICULTURAL TO PADDOCK FOR DOG TRAINING ACTIVITIES	Approve Limited Time	31/01/2003

39606/APP/2021/639	Residential (Class C3) use at the Bungalow (Application for a Certificate of Lawful Development for an Existing Development).	Refusal	23/04/21
39606/APP/2021/1349	Erection of single storey rear extension and single storey side extension to existing bungalow, with associated alterations and works (Application for a Certificate of Lawful Development for a Proposed Development)	Approval	26/04/21
39606/APP/2021/1348	Erection of an additional storey (Application under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended))	Prior Approval N/Req	15/06/21
39606/APP/2021/3745	Erection of single storey outbuilding in rear garden (Application for a Certificate of Lawful Development for a Proposed Development)	Refusal	07/12/21
39606/APP/2021/3731	Erection of an additional storey (Application under Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended))	Prior Approval N/Req	29/11/21

Importantly, by way of the two most-recent permissions on the site (LPA Ref. 39606/APP/2021/1349 & 39606/APP/2021/3731), the existing bungalow will be considerably enlarged by approximately 200 sqm GIA, effectively tripling its existing GIA. Through the additional storey and the lawful rear and side extensions, the existing 3-bedroom bungalow will be enlarged to accommodate up to 10 bedrooms. This much-needed additional floorspace will allow Mr Grewal's growing multi-generational family to comfortably live together as a single household on the application property.

Regarding the recently refused CLOPUD application for an outbuilding (LPA Ref: 39606/APP/2021/3745), the sole reason for refusal was:

1. *The proposed development does not constitute 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 the proposed outbuilding, by reason of its overall size and scale, is not considered to represent a development reasonably required for a purpose incidental to the enjoyment of the existing dwellinghouse.*

The accompanying Officer's Report confirms the proposed outbuilding, which had a footprint of approximately 276 sqm, qualified for permitted development in accordance with Part 1, Schedule 2, Class E of the GPDO

2015 in all other respects. The Officer's Report further confirmed that the proposed use as a home office/gym/store could be considered ancillary to the dwellinghouse use, but it was considered that its size would exceed that which would be reasonably required for purposes incidental to the enjoyment of the dwellinghouse. No further justification for this conclusion was given.

Notwithstanding, following the refusal, we were advised by the Planning Officer that the largest outbuildings which the Council would generally consider to be for purposes incidental to a dwellinghouse would be approx. 50-60 sqm.

PROPOSED DEVELOPMENT

The proposed development comprises the construction of 2 no. single storey outbuildings within the rear garden curtilage of the existing bungalow at Waterdell Farm. The purpose of these outbuildings is entirely incidental to the enjoyment of the main dwellinghouse, in that they will provide much-needed ancillary floorspace for the large family which cannot be reasonably accommodated within the main house.

Both outbuildings will be erected at the rear of the site and will have a footprint of approximately 56 sqm GEA each. One outbuilding will include a personal office, storage space and bathroom. A second outbuilding will include a small home gym, sauna and changing room.

The outbuildings will be constructed in brick to match the existing dwellinghouse, with slim glazing and pitched tiled roofs. Each roof will reach a maximum height of 4m at the ridge, with a maximum eaves height of approx. 2.2m.

Table 1 below includes a breakdown of the existing and proposed buildings/extensions in relation to the residential curtilage, confirming that less than 50% of the residential curtilage will be covered by non-original buildings.

Table 1. Existing and Proposed Site/Building Areas

Land / Building	GEA (sqm)	Percentage of Residential Curtilage
Original Dwellinghouse	141	
Total Site Area	2,007	
Total Site Area (less Original Dwellinghouse)	1,866	100%
Existing Garage	25	1%
Lawful Side Extension	56	3%
Lawful Rear Extension	43	2%
Proposed Outbuildings	112	6%
Total Non-Original Area	236	12%

LEGISLATION AND GUIDANCE

Section 192 of the Town and Country Planning Act (1990), provides for the grant of a Lawful Development Certificate (LDC). A certificate is a statutory document certifying (in the case of an application under Section 192), the lawfulness of proposed operations on, or use of land. An LDC has no function in determining whether consent may be required under other legislation such as the Planning (Listed Buildings and Conservation Areas) Act 1990.

An application for a certificate of lawfulness for proposed development can be submitted to the local planning authority to ascertain whether:

- a) any proposed use of buildings or other land; or
- b) any operations proposed to be carried out in, on, over or under land

would be lawful as set out in Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GDPO).

Subsection (2) of Section 192 provides that, if the local planning authority (LPA) are supplied with information satisfying them that the use or operations described in the application would be lawful, if instituted or begun at the time of the application, they shall issue a certificate to that effect; and, in any other case, they shall refuse the application.

This application is made in respect of b) above, seeking to demonstrate the lawful development of 2 no. outbuildings at Waterdell Farm. As such, in order to demonstrate that the proposed outbuildings are lawful, it must be demonstrated that the development complies with Class E of Schedule 2, Part 1 of the GDPO, which permits 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 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.*

The above being subject to certain criteria, which are considered further in the following sections.

Additionally, Section 192 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 specifies the information to provide with a Certificate of Lawfulness application. Information to include a plan identifying the land, evidence verifying the use of the land and a statement setting out the applicant's interest in the land. Such evidence can include planning application documentation, ownership form and statements from individuals and other parties.

CLASS E ASSESSMENT

Schedule 2, Part 1, Class E of the GPDO permits the development of buildings etc incidental to the enjoyment of a dwellinghouse, including:

The provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse.

As discussed above, it is proposed to construct a 2no. single-storey outbuildings within the rear garden curtilage of the Bungalow at Waterdell Farm. The outbuildings will provide space for storage, a bathroom, home gym, sauna, changing facilities and a home office for ancillary use in association with the main dwellinghouse. The additional space is required for the day-to-day health and wellbeing of a large single-family household, especially a multi-generational household such as Mr Grewal's.

Furthermore, in light of COVID, including the consequential shift towards a more remote way of working and a renewed emphasis on home life and wellbeing, it is considered that the proposed ancillary rooms will provide critical spaces for a flexible and healthy way of living for current and future occupants of the site.

The Court in *Emin* [*Emin v SSE & Mid Sussex DC [1989] JPL 909.*] confirmed that regard should be had not only to the use to which the Class E building would be put, but also to the nature and scale of that use in the context of whether it was a purpose incidental to the enjoyment of the dwellinghouse. The word 'incidental' connotes an element of subordination **in land use terms** in relation to the enjoyment of the dwellinghouse. Size, whilst potentially relevant, is not a conclusive factor in determining whether the proposal would be incidental to the use of the main dwellinghouse. It is, therefore, necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwelling and answer the question as to whether the proposed building is genuinely and reasonably required in order to accommodate the proposed use or activity and thus achieve that purpose. Time and again since, the principles established in *Emin* have been reinforced in similar appeal decisions for outbuildings constructed under Class E.

In this case, the proposed outbuildings will provide Mr Grewal's large and growing family with additional ancillary floorspace to accommodate the abovementioned activities. The purposes of each of room/use within the outbuilding will be entirely reliant upon and incidental to the enjoyment of the main dwellinghouse. Indeed, it is quite common for residents to wish to work from home on occasion, or to exercise within a dedicated

home facility. It is not unreasonable or uncommon to find such ancillary uses within domestic settings, often times within associated outbuildings.

The need for such spaces, in this case, is even greater given the relative isolation of the property and the size of Mr Grewal's multi-generational family living under one roof, which includes his parents, siblings and children (nine adults and two children). Once the rear and side extensions and the upwards extension are complete (LPA Ref. 39606/APP/2021/1349 & 39606/APP/2021/1348), the main house will be able to accommodate the additional necessary bedrooms, but there will be limited space available for a gym, sauna, home office or additional storage. All nine adults in the family are working, with several needing to work from home on occasion, and the costs for private gym memberships for such a large family would be prohibitive in the long-run. Meanwhile, the ongoing COVID-19 pandemic has only strengthened the need for flexible and at-home facilities for working, exercise, health and wellbeing.

We would also draw the Council's attention to several recent appeal decisions for larger outbuildings under Class E, including Appeal Ref: APP/R0660/X/20/3264261 (270 sqm GEA), APP/A0665/X/20/3264895 (275 sqm), APP/J3720/X/20/3262728 (330 sqm) and APP/J1860/X/19/3243455 (264 sqm). Whilst the circumstances of each appeal may differ slightly, the key principles and considerations around use and size/scale remain the same, setting very useful precedents in the determination of this application.

With the above in mind, it is clear that the proposed outbuildings will serve purposes entirely incidental to the enjoyment of the dwellinghouse. As such, the lawfulness of the proposed outbuildings is assessed against the remaining criteria of E.1 below:

E.1 Development is not permitted by Class E if:

<p>(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);</p>	<p>The building is in use as a dwellinghouse in accordance with planning permission LPA Ref. 39606/87/1215.</p>
<p>(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);</p>	<p>The total site area equates to approximately 2,077 sqm, whilst the original dwellinghouse has an area of 141 sqm (GEA). Therefore, the total residential curtilage (less the original dwellinghouse) equates to 1,866 sqm.</p> <p>The proposed outbuildings have a combined area of approximately 112 sqm.</p> <p>Per Table 1 above, the total area of curtilage covered by buildings (excluding the original dwellinghouse; including the lawful rear/side extensions and garage) would equal 236 sqm, which is 12% of the residential curtilage and well below 50%.</p>
<p>(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;</p>	<p>The proposed outbuildings will be constructed in the rear garden and, therefore, will not be situated on land forward of the principal elevation of the original dwellinghouse.</p>
<p>(d) the building would have more than a single storey;</p>	<p>The proposed outbuildings will be single storey.</p>

(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;	The outbuildings will be situated over 2m from all boundaries of the residential curtilage and will have dual-pitched roofs with a maximum height of 4 metres.
(f) the height of the eaves of the building would exceed 2.5 metres;	The height of the eaves will not exceed 2.5 metres, being approx. 2.2m.
(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;	The outbuildings will not be situated within the curtilage of a listed building.
(h) it would include the construction or provision of a veranda, balcony or raised platform;	The outbuildings will not include the construction or provision of a veranda, balcony or raised platform.
(i) it relates to a dwelling or a microwave antenna; or	The development does not relate to a dwelling or a microwave antenna.
(j) the capacity of the container would exceed 3,500 litres	The development is not for a container and, therefore, the capacity threshold does not apply.
(k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).	The dwellinghouse was constructed circa 1989 in accordance with planning permission LPA Ref. 39606/87/1215.

E.2 In the case of any land within the curtilage of the dwellinghouse which is within:

(a) an area of outstanding natural beauty;	The curtilage of the dwellinghouse is not within an area of outstanding natural beauty.
(b) the Broads;	The curtilage of the dwellinghouse is not within the Broads.
(c) a National Park; or	The curtilage of the dwellinghouse is not within a National Park.

(d) a World Heritage Site	The curtilage of the dwellinghouse is not within a World heritage Site.
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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.

Paragraph E.3 does not apply to the development as the curtilage of the dwellinghouse is not within article 2(3) land.

CONCLUSION

This application for a Certificate of Lawfulness seeks confirmation that the proposed outbuildings at Waterdell Farm are lawful in accordance with Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

In light of the above assessment, it is considered that the proposed development meets all of the criteria set out in Class E of Schedule 2, Part 1 of the GPDO 2015 and, therefore, a Certificate of Lawfulness should be issued.

I trust that you have sufficient information to determine this application in accordance with Section 192 of the Act. Notwithstanding, should any further information be required or if you wish to discuss the application, please do not hesitate to contact me (020 3633 1678/ ahenecke@hpuk.com) in the first instance.

Yours faithfully,



Aaron Henecke MSc AssocRTPI
SENIOR PLANNER

Encs.