

**Application reference: 15/2716/PS192**  
**BARNES WARD**

Date application received	Date made valid	Target report date	8 Week date
23.06.2015	24.06.2015	19.08.2015	19.08.2015

**Site:**

15 Ranelagh Avenue, Barnes, London, SW13 0BW

**Proposal:**

Proposed basement extension.

Status: Pending Consideration (If status = HOLD please check that all is OK before you proceed any further with this application)

**APPLICANT NAME**

Mr Nick Pointon  
C/O Agent

**AGENT NAME**

Mr Kieron Hodgson  
Flitcroft House  
114-116 Charing Cross Road  
London  
WC2H 0JR

**DC Site Notice:** printed on and posted on and due to expire on

**Consultations:**

*Internal/External:*

**Consultee**

**Expiry Date**

**Neighbours:**

-

**History: Development Management, Appeals, Building Control, Enforcements:**

Development Management

Status: GTD Application:03/2917/HOT  
Date:14/11/2003 Proposed Ground Floor Rear Conservatory.

Development Management

Status: GTD Application:95/0242/FUL  
Date:23/03/1995 Erection Of New Garage

Development Management

Status: GTD Application:88/0453  
Date:25/04/1988 Erection of garage. (Amended Plan No.(s) 222G1A received on 13th April 1988).

Development Management

Status: PCO Application:15/2716/PS192  
Date: Proposed basement extension.

Building Control

Deposit Date: 05.12.2003 Single storey rear extension.  
Reference: 03/2392/BN

Building Control

Deposit Date: 09.05.2008 BSIPRODUCTSERVICES: 2 doorsets

Reference: 08/BSI00019/BSI

Building Control

Deposit Date: 30.01.2013      Installed a Gas Boiler

Reference: 13/FEN00507/GASAFE

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Enforcement

Opened Date: 16.02.2004      Enforcement Enquiry

Reference: 04/00056/EN

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**Recommendation:**

The determination of this application falls within the scope of Officer delegated powers - YES / NO

**I therefore recommend the following:**

- 1. REFUSAL
- 2. PERMISSION
- 3. FORWARD TO COMMITTEE

This application is CIL liable  YES\*  NO  
(\*If yes, complete CIL tab in Uniform)

This application requires a Legal Agreement  YES\*  NO  
(\*If yes, complete Development Condition Monitoring in Uniform)

This application has representations online (which are not on the file)  YES  NO

This application has representations on file  YES  NO

Case Officer (Initials): .....

Dated: .....

**I agree the recommendation:**

Team Leader/Development Control Manager

Dated: .....

This application has been subject to representations that are contrary to the officer recommendation. The Development Control Manager has considered those representations and concluded that the application can be determined without reference to the Planning Committee in conjunction with existing delegated authority.

Development Control Manager: .....

Dated: .....

<b>REASONS:</b>
<b>CONDITIONS:</b>
<b>INFORMATIVES:</b>
<b>UDP POLICIES:</b>
<b>OTHER POLICIES:</b>

The following table will populate as a quick check by running the template once items have been entered into Uniform

**SUMMARY OF CONDITIONS AND INFORMATIVES**

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**CONDITIONS**

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**INFORMATIVES**

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**DEVELOPMENT CONTROL DELEGATED CHECKLIST / REPORT SHEET**

Date application received	Date made valid	Target report date	8 Week date
23.06.2015	24.06.2015	19.08.2015	19.08.2015

<b>Case Officer:</b>	Mr David Robinson
<b>Application No:</b>	15/2716/PS192
<b>Ward:</b>	BARNES WARD

<b>Site:</b>	15 Ranelagh Avenue, Barnes, London, SW13 0BW
<b>Proposal:</b>	Proposed basement extension.
<b>Status:</b>	Status: <b>Pending Decision</b> (If status = HOLD please check that all is OK before you proceed any further with this application)

**APPLICANT NAME**

Mr Nick Pointon  
C/O Agent

**AGENT NAME**

Mr Kieron Hodgson  
Flitcroft House  
114-116 Charing Cross Road  
London  
WC2H 0JR

<b>Fees due:</b>	£86.00
<b>Fees Received:</b>	£86.00
<b>Fees Outstanding:</b>	£0.00
Outstanding fees should be collected before a decision is issued.	
<b>Certificate/s Correct</b>	
Please check that all certificates are correct before issuing a decision.	
<b>DC Site Notice:</b>	Printed on Posted on Due to expire on

## Neighbours:

77 Elm Bank Gardens, London, SW13 0NX -  
9 Westmoreland Road, Barnes, London, SW13 9RZ -  
13 Ranelagh Avenue, Barnes, London, SW13 0BP -  
6 Stanton Road, Barnes, London, SW13 0EX -  
335 Lonsdale Road, Barnes, London, SW13 9PY -  
55 Archway Street, Barnes, London, SW13 0AS -  
29 Hillersdon Avenue, Barnes, London, SW13 0EG -  
2 Rectory Road, Barnes, London, SW13 0DT -  
6 Rectory Road, Barnes, London, SW13 0DT -  
2 Bellevue Road, Barnes, London, SW13 0BJ -  
71 Madrid Road, Barnes, London, SW13 9PQ -  
295 Lonsdale Road, Barnes, London, SW13 9QB -  
7 Rectory Road, Barnes, London, SW13 0DU -  
88 Lowther Road, Barnes, London, SW13 9NW -  
281 Lonsdale Road, Barnes, London, SW13 9QB -  
11 Cardigan Road, Barnes, London, SW13 0BH -  
47 Gerard Road, Barnes, London, SW13 9QH -  
18 Ranelagh Avenue, Barnes, London, SW13 0BW -  
3 Cardigan Road, Barnes, London, SW13 0BH -  
3A, The Terrace, Barnes, London, SW13 0NP -  
295 Lonsdale Road, Barnes, SW13 9QB -  
49 Glebe Road, Barnes, London, SW13 0EB -  
3 Lonsdale Road, Barnes, London, SW13 9ED -  
10 Rectory Road, Barnes, London, SW13 0DT -  
32 Westfields Avenue, Barnes, London, SW13 0AU -  
15 Rectory Road, Barnes, London, SW13 0DU -  
9 Rectory Road, Barnes, London, SW13 0DU -  
9 Cardigan Road, Barnes, London, SW13 0BH -  
4 Rectory Road, Barnes, London, SW13 0DT -  
16 Ranelagh Avenue, Barnes, London, SW13 0BW -  
1 Rectory Road, Barnes, London, SW13 0DU -  
17 Rectory Road, Barnes, London, SW13 0DU -  
91 Elm Bank Gardens, Barnes, London, SW13 0NX -  
4 Rosslyn Avenue, Barnes, London, SW13 0JX -  
5 Rectory Road, Barnes, London, SW13 0DU -  
THE OLD PARSONAGE, CHURCH STREET, ROPLEY, ALRESFORD, SO24 0DS -  
20 Laurel Road, Barnes, London, SW13 0EE -  
8 Cambridge Road, Barnes, London, SW13 0PG -  
8 Bellevue Road, Barnes, London, SW13 0BJ -  
32 Nassau Road, Barnes, London, SW13 9QE -  
26 Buxton Road, East Sheen, London, SW14 8SY -  
19 Nassau Road, Barnes, London, SW13 9QF -  
46 Rectory road, Barnes, SW13 0DT -

## Officer Report:

### Proposal:

The applicant seeks a certificate of lawful development for a proposed basement extension.

### Site Description:

The application relates to a terraced dwellinghouse located on the northern side of Ranelagh Avenue. The subject dwellinghouse is located within Barnes Common Conservation Area; and Flood Zones 2, 3 and 3a and is locally listed as a Building of Townscape Merit.

### Relevant History:

None

### Representations:

5 general observations have been made and 56 representations have been received objecting to the scheme.

In summary, the general observations raise the following points:

- The noise during construction may be disruptive
- The ground in the area is generally marshy
- Review by specialist engineers is required
- Groundwater in the area may be affected
- Need for a Basement Impact Assessment
- Subsidence at other properties in the area

In summary, the objections have raised the following concerns:

- Previous structural damage to number 14 Ranelagh Avenue
- The proposal should not be considered permitted development
- Need for a Basement Impact Assessment
- Need for more rigorous planning and building control procedures
- Need for an Article 4 Direction for the area
- Scheme is unlawful under section 6 of the Human Rights Act 1998
- No consultation with the community
- Need to be examined by an independent authority before approval
- Potential damage to the rest of the terrace
- Setting a precedent for similar development
- Proximity to Beverley Brook

Notwithstanding the above, this application is for a Lawful Development Certificate and whilst these representations have been noted, the Council is tasked solely with assessing the proposal against the relevant provisions of the Town and Country Planning (General Permitted Development) Order 2015 to determine the lawfulness of the proposed scheme.

Professional Comments:

The proposed scheme involves the creation of a basement extension under the footprint of the original dwellinghouse at a width of some 10.1m, a maximum length of some 11.5m and a depth of approximately 3m in total. There is no existing basement at the property.

The applicant has claimed that the proposal is lawful given that it complies with the relevant provisions of the Town and Country Planning (General Permitted Development) Order 2015, namely Schedule 2, Part 1, Class A - this is considered below.

From review of cases, it is clear the question as to whether these can be considered under Class A of the GPDO is still open, and it appears this should be based on a case by case basis, and fact and degree.

There have been a number of editions of the Technical guidance on permitted development. The first three appear to have no reference to basements. The second edition in October 2013 advised that the creation of basements would be considered under Class A. This was later omitted to the most recent edition in April 2014.

A Planning Inspector's decision in March 2015 (LB of Camden Wildwood Lodge, 9 North End, London) advised in para. 22-24 that it can be down to fact and degree and given the extent of excavation which constitutes an engineering operation, this would fall within the definition of development as set out in Section 55(1) of the Act. This is because it involved the removal of significant volumes of earth which lay between the underpinning structure and what would have constituted the walls. This earth would either have had to be transported away from the site or taken to another part of the site. There is nothing in the GPDO to indicate that such engineering operations can constitute permitted development.

The above is essentially reflected in advice outlined by Gwion Lewis, of Landmark Chambers, who also concluded:

- The proposed basement does not fall under Class A of GPDO as it involves excavation and taking away a substantial volume of ground and soil to make space for the basement
- The excavation would not be de minimis and the excavation works required to create the proposed basement are sufficient as a matter of fact and degree to comprise an engineering operation that requires a separate grant of planning permission
- Planning permission is required for the works as it would have its own material planning impacts in terms of noise, visual impact on the streetscene and associated traffic movements. Planning

permission is required for carrying out any "development" of land: section 57 The permitted development right granted by Class A (the enlargement, improvement or other alteration of a dwellinghouse) is apt to cover "building operations" as defined by s.55 (1A) of the TCPA 1990 but cannot properly be interpreted as including any other types of operations."

- Reading the paragraphs in Class A as a whole, the various exclusions and conditions can only sensibly be applied in relation to proposals to add more built development, or to improve or alter existing built development"
- This interpretation is consistent with the definition of 'building alterations' in section 55(1A) of the TCPA 1990 as including a series of activities, all of a type ultimately described in Section 55(1A)(d) as 'operations normally undertaken by a person carrying on business as a builder'. Underground development that requires the instruction of a specialist structural engineer is not 'normally undertaken by a person carrying on business as a building.. This is why section 55(1) distinguishes between 'building operations' and 'engineering operations'
- Both building operations and engineering operations require a separate grant of planning permission unless they benefit from a permitted development right. Whether the extent of excavation works involved in a development proposal is sufficient to constitute an engineering operation requiring planning permission is a question of fact and degree.

#### Assessment:

Section 57 of the Town and Country Planning Act (1990) states that planning permission is required for the carrying out of "development", with Section 55(1) of the act stating that "development" is "the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land".

Section 55(1A) defines "building operations" as including:

- a) Demolition of buildings;
- b) Rebuilding;
- c) Structural alterations of or additions to buildings, and
- d) Other operations normally undertaken by a person carrying on business as a builder.

In this instance, the scheme will also involve the excavation of a substantial volume of earth to allow for these building works to occur - the extent of excavation works involved to allow for a basement extension of the dimensions stated above (and the necessary structural engineering required), would be such that they would constitute an "engineering operation". It is acknowledged that whether the amount of excavation works constitutes an engineering operation is a matter of fact and degree - however, in this instance, the proposed scheme is considered to involve a significant engineering operation given the substantial volume of earth which will be removed and transported away from the site.

This is consistent with the definition of development as stated in Section 55(1A) of the act given that the extent of works proposed at the property would require the instruction of a specialist structural engineer and would not be undertaken solely "by a person carrying on business as a builder". The specialist nature of the works is further compounded by the site's location within Flood Zones 2, 3 and 3a and the shallow water table in the area.

Given the above, the proposed scheme will involve both a building operation and an engineering operation. Whilst the building works can be considered under Class A, the "enlargement, improvement or other alteration", there is no allowance in the Town and Country Planning (General Permitted Development) Order 2015 for engineering operations to be considered as being permitted development, meaning that planning permission is required.

#### Recommendation:

Refuse lawful development certificate, on the following grounds:

The proposed basement, by virtue of it being development involving significant excavation and engineering works necessitating the engagement of a specialist engineer, would as a matter of fact and degree, constitute an 'engineering operation' of a scale and complexity requiring a separate grant of planning permission and would exceed the scope of (and hence fall outside) of any permitted development right outlined in the Town and Country Planning (General Permitted Development) (England) Order 2015.





**Recommendation:**

The determination of this application falls within the scope of Officer delegated powers - YES / NO

**I therefore recommend the following:**

- 1. REFUSAL
- 2. PERMISSION
- 3. FORWARD TO COMMITTEE

This application is CIL liable  YES\*  NO  
(\*If yes, complete CIL tab in Uniform)

This application requires a Legal Agreement  YES\*  NO  
(\*If yes, complete Development Condition Monitoring in Uniform)

This application has representations online (which are not on the file)  YES  NO

This application has representations on file  YES  NO

Case Officer (Initials): DR.....

Dated: 18.08.2015

**I agree the recommendation:**

Team Leader/~~Development Control Manager~~  
Dated: 19.08.15

This application has been subject to representations that are contrary to the officer recommendation. The Development Control Manager has considered those representations and concluded that the application can be determined without reference to the Planning Committee in conjunction with existing delegated authority.

AS

Development Control Manager: [Signature]  
Dated: 15/08/2015

REASONS:
CONDITIONS:
INFORMATIVES:
UDP POLICIES:
OTHER POLICIES:

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*Internal/External:*

**Consultee**

**Expiry Date**

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Development Control Manager: .....

Dated: .....

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<b>CONDITIONS:</b>
<b>INFORMATIVES:</b>
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<b>OTHER POLICIES:</b>

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**CONDITIONS**

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**INFORMATIVES**

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47 Gerard Road, Barnes, London, SW13 9QH -  
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**Officer Report:**Proposal:

The applicant seeks a certificate of lawful development for a proposed basement extension.

Site Description:

The application relates to a terraced dwellinghouse located on the northern side of Ranelagh Avenue. The subject dwellinghouse is located within Barnes Common Conservation Area; and Flood Zones 2, 3 and 3a and is locally listed as a Building of Townscape Merit.

Relevant History:

None

Representations:

5 general observations have been made and 56 representations have been received objecting to the scheme.



In summary, the general observations raise the following points:

- The noise during construction may be disruptive
- The ground in the area is generally marshy
- Review by specialist engineers is required
- Groundwater in the area may be affected
- Need for a Basement Impact Assessment
- Subsidence at other properties in the area

In summary, the objections have raised the following concerns:

- Previous structural damage to number 14 Ranelagh Avenue
- The proposal should not be considered permitted development
- Need for a Basement Impact Assessment
- Need for more rigorous planning and building control procedures
- Need for an Article 4 Direction for the area
- Scheme is unlawful under section 6 of the Human Rights Act 1998
- No consultation with the community
- Need to be examined by an independent authority before approval
- Potential damage to the rest of the terrace
- Setting a precedent for similar development
- Proximity to Beverley Brook

Notwithstanding the above, this application is for a Lawful Development Certificate and whilst these representations have been noted, the Council is tasked solely with assessing the proposal against the relevant provisions of the Town and Country Planning (General Permitted Development) Order 2015 to determine the lawfulness of the proposed scheme.

Professional Comments:

The proposed scheme involves the creation of a basement extension under the footprint of the original dwellinghouse at a width of some 10.1m, a maximum length of some 11.5m and a depth of approximately 3m in total. There is no existing basement at the property.

The applicant has claimed that the proposal is lawful given that it complies with the relevant provisions of the Town and Country Planning (General Permitted Development) Order 2015, namely Schedule 2, Part 1, Class A - this is considered below.

From review of cases, it is clear the question as to whether these can be considered under Class A of the GPDO is still open, and it appears this should be based on a case by case basis, and fact and degree.

There have been a number of editions of the Technical guidance on permitted development. The first three appear to have no reference to basements. The second edition in October 2013 advised that the creation of basements would be considered under Class A. This was later omitted to the most recent edition in April 2014.

A Planning Inspector's decision in March 2015 (LB of Camden Wildwood Lodge, 9 North End, London) advised in para. 22-24 that it can be down to fact and degree and given the extent of excavation which constitutes an engineering operation, this would fall within the definition of development as set out in Section 55(1) of the Act. This is because it involved the removal of significant volumes of earth which lay between the underpinning structure and what would have constituted the walls. This earth would either have had to be transported away from the site or taken to another part of the site. There is nothing in the GPDO to indicate that such engineering operations can constitute permitted development.

The above is essentially reflected in advice outlined by Gwion Lewis, of Landmark Chambers, who also concluded:

- The proposed basement does not fall under Class A of GPDO as it involves excavation and taking away a substantial volume of ground and soil to make space for the basement
- The excavation would not be de minimis and the excavation works required to create the proposed basement are sufficient as a matter of fact and degree to comprise an engineering operation that requires a separate grant of planning permission
- Planning permission is required for the works as it would have its own material planning impacts in terms of noise, visual impact on the streetscene and associated traffic movements. Planning

permission is required for carrying out any "development" of land: section 57 The permitted development right granted by Class A (the enlargement, improvement or other alteration of a dwellinghouse) is apt to cover "building operations" as defined by s.55 (1A) of the TCPA 1990 but cannot properly be interpreted as including any other types of operations."

- Reading the paragraphs in Class A as a whole, the various exclusions and conditions can only sensibly be applied in relation to proposals to add more built development, or to improve or alter existing built development"
- This interpretation is consistent with the definition of 'building alterations' in section 55(1A) of the TCPA 1990 as including a series of activities, all of a type ultimately described in Section 55(1A)(d) as 'operations normally undertaken by a person carrying on business as a builder'. Underground development that requires the instruction of a specialist structural engineer is not 'normally undertaken by a person carrying on business as a building.. This is why section 55(1) distinguishes between 'building operations' and 'engineering operations'
- Both building operations and engineering operations require a separate grant of planning permission unless they benefit from a permitted development right. Whether the extent of excavation works involved in a development proposal is sufficient to constitute an engineering operation requiring planning permission is a question of fact and degree.

#### Assessment:

Section 57 of the Town and Country Planning Act (1990) states that planning permission is required for the carrying out of "development", with Section 55(1) of the act stating that "development" is "the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land".

Section 55(1A) defines "building operations" as including:

- a) Demolition of buildings;
- b) Rebuilding;
- c) Structural alterations of or additions to buildings, and
- d) Other operations normally undertaken by a person carrying on business as a builder.

In this instance, the scheme will also involve the excavation of a substantial volume of earth to allow for these building works to occur - the extent of excavation works involved to allow for a basement extension of the dimensions stated above (and the necessary structural engineering required), would be such that they would constitute an "engineering operation". It is acknowledged that whether the amount of excavation works constitutes an engineering operation is a matter of fact and degree - however, in this instance, the proposed scheme is considered to involve a significant engineering operation given the substantial volume of earth which will be removed and transported away from the site.

This is consistent with the definition of development as stated in Section 55(1A) of the act given that the extent of works proposed at the property would require the instruction of a specialist structural engineer and would not be undertaken solely "by a person carrying on business as a builder". The specialist nature of the works is further compounded by the site's location within Flood Zones 2, 3 and 3a and the shallow water table in the area.

Given the above, the proposed scheme will involve both a building operation and an engineering operation. Whilst the building works can be considered under Class A, the "enlargement, improvement or other alteration", there is no allowance in the Town and Country Planning (General Permitted Development) Order 2015 for engineering operations to be considered as being permitted development, meaning that planning permission is required.

#### Recommendation:

Refuse lawful development certificate, on the following grounds:

The proposed basement, by virtue of it being development involving significant excavation and engineering works necessitating the engagement of a specialist engineer, would as a matter of fact and degree, constitute an 'engineering operation' of a scale and complexity requiring a separate grant of planning permission and would exceed the scope of (and hence fall outside) of any permitted development right outlined in the Town and Country Planning (General Permitted Development) (England) Order 2015.



**Recommendation:**

The determination of this application falls within the scope of Officer delegated powers - YES / NO

**I therefore recommend the following:**

- 1. REFUSAL
- 2. PERMISSION
- 3. FORWARD TO COMMITTEE

This application is CIL liable

YES\*       NO  
(\*If yes, complete CIL tab in Uniform)

This application requires a Legal Agreement

YES\*       NO  
(\*If yes, complete Development Condition Monitoring in Uniform)

This application has representations online (which are not on the file)

YES       NO

This application has representations on file

YES       NO

Case Officer (Initials): DR

Dated: 18.08.2015

**I agree the recommendation:**

Team Leader/~~Development Control Manager~~

Dated: 19.08.15

This application has been subject to representations that are contrary to the officer recommendation. The Development Control Manager has considered those representations and concluded that the application can be determined without reference to the Planning Committee in conjunction with existing delegated authority.

Development Control Manager: [Signature]

Dated: 15/08/2015

REASONS:
CONDITIONS:
INFORMATIVES:
UDP POLICIES:
OTHER POLICIES: