

Felix Lewis Architects

367 - 40 Sheen Common Drive

Permitted Development Proposals



March 2024
Rev - 00

Felix Lewis Architects

367 - Sheen Common Drive

Contents:

Pre - Application Advice LBRT Letter of response

Design Strategy Permitted development - Garden building

Pre-Application Advice:

Official



Environment Directorate PLANNING

Civic Centre
44 York Street
Twickenham
TW1 3BZ
website: www.richmond.gov.uk

Our ref: 23/P0014/PREAPP

Felix Lewis
felix@felixlewisarchitects.com

Contact: Jack Davies
Telephone: 02088911411
Email: jack.davies@richmondandwandsworth.gov.uk

08 February 2024
BY EMAIL ONLY

Dear Patrick,

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

LOCATION: 40 SHEEN COMMON DRIVE RICHMOND TW10 5BN
PROPOSAL: PERMITTED DEVELOPMENT PROPOSALS FOR HOUSE ALTERATIONS TO THE EXISTING DWELLING HOUSE AND GARDEN ROOM.

I write in reference to your request for pre-application advice received 11 January 2023.

- This pre-application scheme is in relation to permitted development proposals, which include fenestration changes to the main dwelling, a new rear extension and a new outbuilding.
- The proposal site, is located on the Southern Side of Sheen Common Drive. The existing property is a two storey detached dwelling. The site is located within the Sheen Common Drive Conservation Area. The rear portion of the backgarden is designated as Other Open Land of Townscape Importance. The site is designated within Floodzone 1, a critical drainage area and is between 25% and 49.9% susceptible to groundwater flooding.
- The Town and Country Planning (General Permitted Development) Order 2015 (as amended) applies to all land in England and Wales, other than land which is the subject of a special development order, and specifies various classes of development which may be undertaken without the permission of the local planning authority. Such development, referred to as "permitted development", is deemed to have planning permission by the Order, and does not require an application for planning permission to be submitted to the Council.
- This is an pre-application in regard to a Lawful Development Certificate which is a request to the Council to confirm that the development as specified does not require an application for planning permission to be submitted to the Council.

The application site is a dwellinghouse, and the application will be assessed against Schedule 2, Part 1 of the Town and Country (General Permitted Development) Order 2015 (as amended), which relates to "Development within the curtilage of a dwellinghouse".

Class E

The proposed outbuilding has not yet been demonstrate to be considered to be permitted development under Class E:

- (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

If:

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

E.1 Development is not permitted by Class E if	Officer's Comment:
(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 (change of use)	Complies
(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)	Complies
(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	Complies
(d) the building would have more than a single storey	Complies
(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	Does not comply. The proposed site plan shows the outbuilding is 0.7m from the rear and the proposed height exceeds 2.5m PD Technical Guidance note: <i>If any part of the building, container or enclosure is within 2 metres of the boundary of the curtilage of the house, then the height limit for the total development is restricted to 2.5 metres if it is to be permitted development.</i>
(f) the height of the eaves of the building would exceed 2.5 metres	Complies
(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building	N/A
(h) it would include the construction or provision of a verandah, balcony or raised platform	Complies
(i) it relates to a dwelling or a microwave antenna	Complies
(j) the capacity of the container would exceed 3,500 litres; or	Complies
(k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses)	Complies

Pre-Application Advice:

Official



E.2 In the case of any land within the curtilage of the dwellinghouse which is within -	Officer's Comment:
(a) a World Heritage Site,	Not applicable
(b) a National Park,	Not applicable
(c) an area of outstanding natural beauty or	Not applicable
(d) the Broads ,	Not applicable
development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwellinghouse would exceed 10 square metres	Not applicable

E.3	Officer's Comment:
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	Complies

General: Would the proposed building be used for a purpose not considered incidental to the enjoyment of the dwellinghouse?

The permitted development technical guidance states:

A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen.

The proposal includes a bathroom which suggests that it would be considered ancillary and not incidental.

Further to this, Class E of the General Permitted Development Order grants planning permission "for the provision within the curtilage of a dwellinghouse of any building or enclosure....required for a purpose incidental to the enjoyment of the dwellinghouse as such". The courts have held that the word "required" in this context should be interpreted to mean "reasonably required", subject to various restrictions on size.

Whilst it is a matter primarily for the occupier to determine what incidental purpose they propose to enjoy, the test must retain an element of objective reasonableness. The Council has a duty to critically examine such applications, particularly where a substantial building is proposed, otherwise Class E would be open to abuse.

Official



A relevant case for the consideration of this assessment is the appeal of *Emin v SSE & Mid Sussex DC [1989] JPL 909*. This appeal case indicates that even if the nature of the activities carried out within a proposed outbuilding are considered incidental to the main use of the dwellinghouse, the scale of the activities is important. The relevant conclusive remark for this appeal suggests that *'the fact that such a building has to be required for a purpose associated with the enjoyment of a dwellinghouse cannot rest solely on the unrestrained whim of him who dwells there, but connotes some sense of reasonableness in all the circumstances of the particular case'*.

The onus is on the applicant to demonstrate that a building of this scale is *reasonably* required, for purposes incidental to the enjoyment of the main dwellinghouse.

Summary

- The proposed windows are required to have a similar appearance and style to the existing windows to be considered permitted development.
- The flat roof of the rear extension should be no taller than 3m to be considered permitted development.
- The outbuilding in this location should be no greater than 2.5m in height.
- The applicant should submit evidence to demonstrate that the outbuilding would be used incidental to the enjoyment of the dwelling house. A bathroom located in the outbuilding does not help this case.

Without prejudice

Any given advice by Council Officers from pre-application enquiries does not constitute a formal response or decision of the Council with regard to future planning consents. Any views or opinions expressed are given in good faith and to the best of ability without prejudice to formal consideration of any planning application, which was subject to public consultation and ultimately decided by the Council. You should therefore be aware that officers cannot give guarantees about the final form or decision that will be made on your planning or related applications.

Although the advice note will be brought to the attention of the Planning Committee or an officer acting under delegated powers, it cannot be guaranteed that it will be followed in the determination of future related planning applications and in any event circumstances may change or come to light that could alter the position. It should be noted that if there has been a material change in circumstances or new information has come to light after the date of the advice being issued then less weight may be given to the content of the Council's pre-application advice of schemes. You are also advised to refer to local and national validation checklist on the Council's website.

In the meanwhile should you have any further concerns or enquiries please do not hesitate in contacting me.

Yours sincerely

Sarah Griffec

PP. Nicki Dale

Team Manager – South Area

Development Management

London Borough of Richmond Upon Thames

Design Strategy: Garden Room

Alterations to the front of a property fall under Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Class E.

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

Para (a) permission to use the dwelling house as a dwelling house has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

Permitted as the house has not been granted by virtue of class M, N P or Q.

Para (b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwelling house) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwelling house);

Permitted as the garden building does not exceed 50% of the total area of the curtilage.

Para (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 dwelling house;

Permitted as the garden building is not situated forward of the principal elevation of the dwelling house.

Para (d) the building would have more than a single storey;

Permitted as the garden building is a single storey.

(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,

Permitted as the height of garden building is no more than 4 meters to the ridge line of the roof. The pitches of the roof are no shallower than 10 degrees. Roofs below 10 degrees are defined as flat in BS: 6229, and pitched if over 10 degrees.

(ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage of the dwelling house, or

Permitted as the eaves height is 2.5 meters within 2 meters of the boundary.

(iii) 3 metres in any other case;

Not relevant as the E(i) and E(ii) are permitted.

Para (f) the height of the eaves of the building would exceed 2.5 metres;

Permitted as the eaves height is 2.5 meters.

Para (g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;

Permitted as the dwelling house is not listed.

Para (h) it would include the construction or provision of a verandah, balcony or raised platform;

Permitted as the proposal does not include a verandah, balcony or raised platform.

Para (i) it relates to a dwelling or a microwave antenna; or

Permitted as the proposal does not relate to a dwelling or a microwave antenna.

Para (j) the capacity of the container would exceed 3,500 litres.

Permitted as the proposal is not a container.

Para (k) the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).

Permitted as the dwelling was not built under Part 20 of the schedule.

E.2 In the case of any land within the curtilage of the dwelling house which is within—

(a) an area of outstanding natural beauty;

(b) the Broads;

(c) a National Park; or

(d) a World Heritage Site,

development is not permitted by Class E if the total area of ground covered by buildings, enclosures, pools and containers situated more than 20 metres from any wall of the dwelling house would exceed 10 square metres.

Permitted as the proposal is not in an AONB, The Broads, a National Park or a World Heritage Site.

E.3 In the case of any land within the curtilage of the dwelling house 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 dwelling house and the boundary of the curtilage of the dwelling house.

Permitted as the proposal is not situated on land between a wall forming the side elevation of the dwelling house and the boundary of the curtilage of the dwelling house.

Interpretation of Class E

E.4. For the purposes of Class E, "purpose incidental to the enjoyment of the dwelling house 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 dwelling house.

Permitted as the proposal is for a gym and home studio which are purposes incidental to the enjoyment of the dwelling house.

Design Strategy: Garden Room

Response to Pre-Application Advice

The pre-application response largely confirmed that the design is permitted. There were two items that have been changed to fully comply:

- 1) For the garden room to comply, all elements of the building are more than 2m from the boundary. This allows for the structure to have an eaves height of 2.5m and a ridge height of 4m.
- 2) A question was raised as to if the activities in the space are incidental to the enjoyment of the dwellinghouse. For this to comply, then this does not allow for self contained accommodation. As such there is no WC, no kitchen nor sleeping accommodation. The proposed uses (Gym, Office & Sauna / Steam Room) are incidental, and are not ancillary.