

Application reference: 24/1856/PS192
BARNES WARD

Date application received	Date made valid	Target report date	8 Week date
19.07.2024	19.07.2024	13.09.2024	13.09.2024

Site:

34 Nassau Road, Barnes, London, SW13 9QE

Proposal:

Erection of a pool house and external swimming pool in the rear garden

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

APPLICANT NAME

Mr Tom Richards
34 Nassau Road
Barnes
London
Richmond Upon Thames
SW13 9QE

AGENT NAME

Mr Greg Cooper
suite LP59350
20-22 Wenlock Road
London
N1 7GU
United Kingdom

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: REF

Date:11/02/2002

Application:01/2976

Demolition Of Outbuildings To Side And Rear, Replace With New Side And Rear Extension. Erection Of Extension To Front Roof Gable And Front Roof Dormer.

Development Management

Status: GTD

Date:11/06/2002

Application:02/1069

Proposed Side And Rear Single Storey Extension.

Development Management

Status: GTD

Date:08/03/1983

Application:82/1534

Erection of a roof extension at rear.

Development Management

Status: GTD

Date:20/03/2014

Application:14/0082/HOT

Outbuilding in rear garden

Development Management

Status: GTD

Date:06/07/2015

Application:15/1929/HOT

Erection of detached, flat roofed, timber framed pavilion and raised deck area in rear garden.

Development Management

Status: GTD

Date:26/06/2024

Application:24/1121/HOT

Proposed matching gable extensions, formation of front dormers and rooflights to the front roof, replacement roof tiles at Nos. 34 and 36 Nassau Road. Removal of front roof slope flue, raising of roof ridge and replacement of front door to No.34.

Development Management

Status: REF

Date:25/06/2024

Application:24/1194/PS192

Erection of a pool house and external swimming pool in the rear garden.

Development Management

Status: PCO

Date:

Application:24/1856/PS192

Erection of a pool house and external swimming pool in the rear garden

Development Management

Status: PCO

Date:

Application:24/1858/HOT

Proposed Lower ground and ground floor extensions with rooflights and front, side and rear lightwells. Amend front garage parapet. Replacement windows and doors. Replace rear flat roof and rear dormer including addition of Juliet balcony. Remove chimney stack. Addition of 2 chimney stacks. Remove render on rear façade to expose/reinstate brickwork. Alter boundary wall.

Building Control

Deposit Date: 08.07.2002

Single storey rear and side extensions and internal layout structural alterations.

Reference: 02/1253/BN

Application Number	24/1856/PS192
Address	34 Nassau Road Barnes London SW13 9QE
Proposal	Erection of a pool house and external swimming pool in the rear garden.
Contact Officer	Jack Davies

1. Introduction

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.

The applicant has submitted an application for a Certificate of Lawful Development (Proposed). In assessing this application, the Council is making a determination of law as to whether or not the proposed development complies with the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Issues such as the policies contained in the Council's adopted Richmond Local Plan (2018) are not to be taken into consideration as the decision is based on fact and not on policy grounds.

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

The application site comprises a two storey semi-detached property located on the southern side of Nassau Road. The site does not fall within a Conservation Area, nor does it constitute a Building of Townscape Merit. It is located within flood zones 2, 3 and 3a, between 50% and 74.9% susceptible to groundwater flooding, within an area of Archaeological Priority, and the rear of the garden is located within Other Open Land of Townscape Importance.

3. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

Erection of a pool house and external swimming pool in the rear garden.

The scheme seeks confirmation in the form of a lawful development certificate that the construction of the development described above would constitute permitted development.

The comprehensive list of planning history can be found above. The relevant planning history:

- **82/1534** - Erection of a roof extension at rear. **Granted**
- **01/2976** - Demolition Of Outbuildings To Side And Rear, Replace With New Side And Rear Extension. Erection Of Extension To Front Roof Gable And Front Roof Dormer. **Refused**
Reason: The proposed roof extensions by reason of their size, bulk and design, would detract from the appearance of the existing house and would be overdominant and detrimental to the visual amenities of the area. The proposal is therefore contrary to policy ENV19 of the Richmond upon Thames Unitary Development Plan and policy BLT11 of the First Review.
- **02/1069** - Proposed Side And Rear Single Storey Extension. **Granted**
- **14/0082/HOT** - Outbuilding in rear garden. **Granted**
- **15/1929/HOT** - Erection of detached, flat roofed, timber framed pavilion and raised deck area in rear garden. **Granted**
- **24/1194/PS192** - Erection of a pool house and external swimming pool in the rear garden. **Refused**
Reason - This proposal CONSTITUTES DEVELOPMENT within the meaning of Section 55 of the Town and Country Planning Act 1990, and a planning application IS REQUIRED. This is because it does not meet criteria laid down under Class E (a) of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and any subsequent legislative amendments. This is because the proposed development, by reason of its scale and absence of sufficient information in relation to the proposed use, has failed to demonstrate that it is reasonably required for purposes incidental to the enjoyment of the main dwellinghouse.

4. CONSULTATIONS CARRIED OUT

This is an application for a Certificate of Lawful Development (Proposed), 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. In assessing this application, the Council is making a determination of law, and as such it is not considered to be necessary to undertake a public consultation.

5. AMENDMENTS

None.

6. EXPLANATION OF RECOMMENDATION

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 development *is* 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

for the following reasons:

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	Complies. 2.5m in height within 2m of a boundary.
(f) the height of the eaves of the building would exceed 2.5 metres	Complies. Annotated on plans.
(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building	Complies
(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

E.2

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	Not applicable

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

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 he/she proposes 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.

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*’.

It is noted that the previous application was refused on the basis that insufficient evidence was submitted to determine that the proposals were reasonably required for purposes incidental to the dwelling house. The previous officer report noted particularly that –

Notably, a bathroom and shower would not generally fit this description, although some flexibility can be given in this circumstance given there is a proposed pool, the proposed bathroom facilities are large, comprising an area of approximately 12.5sqm.

Furthermore, it is noted that there is a reiki room proposed, as well as a large area (approximately 9.5sqm) which was originally proposed as a kitchen, but now has no annotated use. It is unclear how these spaces are genuinely and reasonably required, incidental to the dwelling.

The applicant has submitted the same scheme as previously refused. However, have gone into further detail in regards to the proposed use of the pool house.

The supporting information, which includes a ‘supporting statement’ report, as well as a follow up email, details the use of each room within the proposed pool house.

As previously stated, whilst a shower and bathroom would not generally fit an incidental use description, their

association with the pool allows for some flexibility to be allowed. The applicant has provided an explanation as to why facilities of this size is required having regard to the nature of the outbuilding as a pool house given the distance to the main dwelling, and that the advantage of being able to change at the pool is undermined if, having got dressed, it is then necessary to go back to the house to shower.

In regards to the centre room to the front of the proposed pool house, the applicant notes –

At the centre of the pool house there is a space accessed via two doors that provides the internal space you would expect to find in a pool house. The drawing shows a table and two chairs which gives an indication of its modest capacity. It is shown with storage cupboards on one wall and is 3.63m wide wall to wall and 2.62m deep, 9.5 sqm. This is the primary place to shelter from the sun and rain, to have refreshments, to provide play space for young children, to be able to oversee children in the pool, or to simply sit and read a book or socialise. This room can be opened up into a rear area which is also multi-purpose. If the whole family gets caught by a storm they can open up the whole space and it can be used if the extended family or family guests come to use the pool.

The description of this space provided is considered adequate and is considered reasonable. Whilst a space of such vague use may have not generally been considered incidental to the enjoyment of the existing dwelling, it is considered that its combined use with the proposed pool, as well as the explanation provided, that it can be considered incidental in this instance.

In regards to the reiki room, further detail on this use was provided via email. Officers note that reiki is generally known as a type of healing practice, which generally is administered from one person to another. Notwithstanding this, the applicants have outlined that the labelling of the room as 'reiki room' has not been with the intention that this room would solely be used for reiki (although if it was it would only be administered to other members of the household, or to ones self), but for a number of uses, including potential rest, relaxation, retreat, reading or yoga. Given the additional detail provided it is considered that this room could be considered as an incidental use to the existing dwelling.

The proposed sauna is considered to be incidental to the house, and the size is considered reasonable.

In light of the additional detail provided, it is considered that sufficient information has been submitted which demonstrates that the proposals would be used incidental to the enjoyment of the dwelling house.

7. RECOMMENDATION

Approve Certificate

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):DAV..... Dated:12/08/2024.....

I agree the recommendation:

This application has been subject to representations that are contrary to the officer recommendation. The Head of Development Management / South Area Team 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.

Senior Planner:GE.....

Dated:04/09/2024.....