

Our Ref: 5432IFLA.DOC

23 January 2025

Planning Department
London Borough of Richmond upon Thames
Civic Centre
44 York Street
Twickenham
Middlesex TW1 3BZ

ONLINE SUBMISSION

Dear Sirs

1 BRAEMAR COTTAGE, MANOR ROAD, TEDDINGTON

On behalf of our client, we are submitting an application for a Lawful Development Certificate to confirm that a proposed outbuilding at 1 Braemar Cottage is lawful. This follows approval of application reference 24/1572/PS192 for a Certificate of Lawful Development to block up a doorway in 1 Braemar Cottage.

Permitted development rights are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended with advice for householders being given in the 2019 Technical Guidance.

The outbuilding falls under Class E of the legislation *buildings etc incidental to the enjoyment of a dwellinghouse* and will meet the requirements as follows:

Permitted development

E. 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 – The proposed building will be a home office and gym.

(b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas. – Not relevant.

Development not permitted

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

(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class G, M, MA, N, P, PA or Q of Part 3 of this Schedule (changes of use); – The dwelling has not been formed under a change of use permitted in the Town and Country Planning (General Permitted Development) (England) Order 2015.

(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); – The total area of the curtilage is 85.6m². The ground floor area of the original house is 30.9m² and the area of the outbuilding will be 23.2m². This is 42% of the curtilage excluding the original dwelling. All areas are approximate.

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(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; – The outbuilding will be set behind the rear elevation of the original house.

(d) the building would have more than a single storey; – The outbuilding will be 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,

(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 – The maximum height of the outbuilding will be 2.49m.

(iii) 3 metres in any other case;

(f) the height of the eaves of the building would exceed 2.5 metres; – The maximum height of the outbuilding will be 2.49m.

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building; – 1 Braemar Cottage is not a Listed Building.

(h) it would include the construction or provision of a verandah, balcony or raised platform; – Not relevant; a verandah is not proposed.

(i) it relates to a dwelling or a microwave antenna; – Not relevant; a microwave antenna is not proposed.

(j) the capacity of the container would exceed 3,500 litres – Not relevant; a container is not proposed.

E.2 In the case of any land within the curtilage of the dwellinghouse 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 dwellinghouse would exceed 10 square metres. – Not relevant; the site is not within one of the areas detailed.

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. – The site is within a Conservation Area but the proposed outbuilding will not be between the side wall of the house and the site boundary.

As noted above, the proposed outbuilding meets all the requirements set out in the legislation.

Permitted development rights only apply to a dwellinghouse. Dwellinghouses do not include buildings containing one or more flats or a single flat contained within a building. 1 Braemar Cottage is a dwellinghouse as set out below:

- 1 Braemar Cottage is the right hand house of a pair of semi-detached houses. All pairs of semi-detached houses can be said to comprise a single building containing two houses.
- The property has been known as 1 Braemar Cottage. This has been used for decades by all its residents, owners and mortgagees and the Post Office, all being of the view that the property is a house.
- As with the great majority of houses, 1 Braemar Cottage benefits from a freehold title. Included within this ownership is the rear garden, the ground, first and loft levels, the roof structure and the air space above it, the floor structure and the ground beneath it, the front, rear and flank elevation walls and to the middle of the party wall with its neighbouring semi-detached house, 2 Braemar Cottage.

- In accordance with the Leasehold Reform, Housing and Urban Development Act 1993, a flat on the other hand is defined as *'a separate set of premises (whether or not on the same floor) (a) which forms part of a building, and (b) which is constructed or adapted for use for the purposes of a dwelling, and (c) either the whole or a material part of which lies above or below some other part of the building.'* 1 Braemar Cottage is clearly not a flat as the whole or a material part of it does not lie above or below some other part of the building.

The applicant's previous application for a Certificate of Lawfulness (reference 23/2742/PS192) was refused on the basis of an incorrect assessment of the property. The officer's planning report said:

'As confirmed by the Planning Inspector in the dismissed Appeal reference APP/L5810/W22/3306052 (referring to the refused application reference 22/0593/FUL): "the appeal site includes a two-storey building which is (...) currently occupied as 2 dwellings" In doing so, the host property does not follow within the definition of Dwellinghouse and hence does not benefit from Permitted Development Rights.'

Both flats and houses are types of dwellings so the Inspector's wording could equally have been interpreted as describing a building comprising two semi-detached houses. This would have been a far more accurate interpretation as this reflects the facts.

The Royal Institute of Chartered Surveyors (RICS) advises councils and government departments on planning and real estate matters and is held in high esteem for its professional advice. Chartered Surveyors Roy McClure Associates undertook a formal valuation of 1 Braemar Cottage for the purposes of a previous planning application (reference 18/4156/FUL) and in their Report dated 25 February 2020 (paragraph 4, Description) which was submitted to the council and its consultants, the surveyors confirmed that *'The property comprises a two storey right hand side semi-detached house'*. Therefore, the council already had the knowledge that members of the RICS were of the view that 1 Braemar Cottage is a house.

1 Braemar Cottage looks like a house, it has long been called a house, it has a freehold title like a house and it is thought to be a house by past owners, residents and mortgagees. As it does not meet the definition of a flat it is not a flat within a building and is considered to be a house by professional members of the RICS. An inspection of the freehold title and of the property itself will easily enable any professional person to confirm that the property is a dwellinghouse.

In conclusion, 1 Braemar Cottage falls within the legal definition of a dwellinghouse and the proposed outbuilding meets all the criteria set out in the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.

Yours faithfully



BROOKES ARCHITECTS LTD