

Committee date	5th December 2018
Application reference	18/01141/FULH
Site address	26, Courtlands Drive
Proposal	Erection of a single storey detached garden outbuilding (part retrospective) for incidental use to serve a swim spa/pool and sauna with ancillary WC, shower and changing facilities.
Applicant	Mr Steve Peters
Agent	Mr Mark Olding
Type of Application	Full planning application
Reason for Committee Item	Number of objections
Target decision date	1st November 2018
Statutory publicity	None required
Case officer	Paul Baxter paul.baxter@watford.gov.uk
Ward	Nascot

1. Recommendation

Approve subject to the completion of a s.106 unilateral undertaking to control the use of the building and conditions as set out in section 8 of this report.

2. Site and surroundings

- 2.1 The application property comprises a two storey, semi-detached property constructed in the 1930's and located on the south-east side of Courtlands Drive a short distance to the north of the junction with The Ridgeway. It is sited within a large plot which has recently been extended through the acquisition of part of a neighbouring garden. The surrounding area is characterised by large detached houses within spacious plots.
- 2.2 Further information, including the site plan and drawings, is available in the appendices to the report and on the Council's [website](#).

3. Summary of the proposal

3.1 Proposal

Full planning permission is sought for the retention of a substantially complete single storey detached out house for incidental use to the main dwelling as a swim spa/pool and sauna with ancillary WC, shower and changing facilities. The building has a rectangular footprint measuring 12m by 6m, with a pitched, tiled roof and an eaves height of 2.5m and a ridge height of 4m. It has an

internal floorarea of 61m². The building is to have a brick finish and tiled roof to match the main house with all windows stated to be obscure glazed.

3.2 Conclusion

The building is sited to the rear of a large garden area and is set in 2m from each boundary. Although large for an outbuilding, it sits comfortably within this large plot and will not have any adverse impact on surrounding properties. Subject to the completion of a s.106 unilateral undertaking to ensure the building is not used for habitable accommodation, the application is recommended for approval.

4. Relevant policies

Members should refer to the background papers attached to the agenda. These highlight the policy framework under which this application is determined. Specific policy considerations with regard to this particular application are detailed in section 6 below.

5. Relevant site history/background information

5.1 06/00799/FUL - Erection of a two storey front extension and a rear conservatory – Conditional planning permission granted 16/08/2006.

07/01186/FUL - Erection of a two storey front extension and a rear conservatory – Conditional planning permission granted 30/10/2017.

08/00299/FUL - Erection of a first floor rear extension and revised conservatory – Conditional planning permission granted 23/04/2008.

16/01554/FULH - Erection of first floor rear extensions to numbers 26 and 28 Courtlands Drive – Conditional planning permission granted 04/01/2017.

18/00369/FULH – Erection of a single storey detached outbuilding – Planning permission refused 11.06.2018.

18/00661/LDC – Lawful development certificate for a single storey detached garden outbuilding for incidental use. Refused 19.07.2018.

6. Main considerations

6.1 The main issues to be considered in the determination of this application are:

- (a) Principle and use of development.
- (b) Scale and design.

(c) Impact on surrounding properties.

6.2 (a) Principle of development

The principle of a detached outbuilding within the garden area is acceptable in principle. The reason for the previous applications for planning permission and a lawful development certificate being refused related to the size of the building, the facilities proposed and the opportunity for such a large building to be used for habitable accommodation. It is imperative that all outbuildings are used only for purposes incidental to the use of the main dwelling.

6.3 The previous application for planning permission (18/00369/FULH) showed the building to be used as a gym/home office, sauna, relaxation room and shower room, and was refused for the following reason:

The proposed out house, with its own shower room/WC and relaxation room, would have the layout and facilities of a self-contained dwelling and would not constitute an ancillary outbuilding. The proposed outbuilding cannot therefore be considered to be for the sole use and enjoyment of the dwelling and is not acceptable in accordance with Section 8.16 of the Residential Design Guide 2016. The provision of a building capable of independent use in this location would constitute unsuitable habitable space, it would be detrimental to the amenities of the dwelling and neighbouring properties and would be detrimental to the area contrary to policies UD1 and SS1 of the Watford Local Plan Part 1 - Core Strategy.

6.4 The subsequent application for a lawful development certificate showed the building to be used as a swim/spa with seating area and storage and a changing room/shower (identical to the current application), and was refused consent for the following reason:

A building of this size and described use, with WC facilities, does not constitute an ancillary outbuilding or one that is incidental to the use of the dwellinghouse. The proposed outbuilding would be a large, self-contained detached building with its own WC/Shower and large seating and storage area. As such, the proposed outbuilding would be of a design, size and layout capable of being used as a self-contained dwelling in its own right. The proposed development cannot therefore be considered compliant with regulation E(a) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (Schedule 2, Part 1) which states that it must be 'incidental to the enjoyment of the dwellinghouse'. For these reasons the proposed outbuilding cannot be regarded as Permitted Development.

- 6.5 The Council has taken enforcement action in recent years against a number of outbuildings being used unlawfully as residential accommodation. It has also refused to grant lawful development certificates for large outbuildings where it has not been satisfied that the proposed out building would be used for ancillary or incidental purposes. In a recent appeal decision at 282 Cassiobury Drive, the Inspector dismissed an appeal against the Council's refusal to grant a lawful development certificate for an outbuilding measuring 12m by 4.6m. The proposed use of the building was described as a gym, garage/garden machine store, store room and w/c. In dismissing the appeal the Inspector stated:

It is for an appellant to show that a building of a proposed size is reasonably required, and that it would be designed with incidental uses in mind, having regard to all the circumstances. The uses put forward in this case as those for which the building is required would not normally necessitate a building of this considerable size. It is not clear to me therefore why such a large building is required. I conclude, on balance, that the appellant has not demonstrated that the proposed building is genuinely required for purposes incidental to the enjoyment of the dwellinghouse as such.

- 6.6 The building remains large and is of a floor area that could facilitate the use as habitable accommodation and even a self-contained dwelling in the future. The applicant has specifically stated that the proposed use is for a swim/spa pool and has submitted manufacturer's details, however, this could be changed at any time in the future. The only way of ensuring the outbuilding is not used as a dwelling or for habitable accommodation is by means of a s.106 unilateral undertaking to prohibit such use. This would be directly enforceable in the courts without the need for enforcement action and would also show up on searches should the property be sold in the future. The applicant has agreed to complete such an undertaking and this is considered to be sufficient to overcome the previous reason for refusal.

- 6.7 (b) Scale and design

The scale and design of the outbuilding is large, with a footprint of 72m². However, it is sited to the rear of a large garden, of 640m², and is 30m from the existing house. It is also sited 2.2-2.8m from the respective side and rear garden boundaries at its closest points. Other properties do have substantial garden buildings (the adjoining property has an outbuilding measuring 6m by 6m) and although this will be the largest outbuilding in the surrounding area, it will not appear unduly prominent due to the large garden within which it sits and the spacious nature of the surrounding plots. The surrounding gardens also contain various mature trees and vegetation. As such, the proposed building will have no adverse impacts on the character and

appearance of the area.

6.8 (d) Impact on surrounding properties

The nearest adjoining property is 2, The Orchard which backs on to the rear part of the garden where the outbuilding is sited. Whilst the building will be clearly visible from this property, particularly the upper floor windows, it will not give rise to any loss of outlook, light or privacy to this property. The other surrounding houses are sited 23-35m away.

7. Consultation responses received

7.1 Statutory consultees and other organisations

None required.

7.2 Internal Consultees

None required.

7.3 Representations received from interested parties

Letters were sent to 19 properties in the surrounding area. Responses have been received from 6 properties, all objecting to the proposal. The comments are summarised below:

Representations	Officer's response
Loss of a tree protected by a Tree Preservation Order.	If there is evidence to demonstrate that there has been a breach of the Tree Preservation Order separate legal proceedings would need to be pursued.
Area is already densely built up and this large scale building will have a negative impact.	Whilst the outbuilding is large, it sits within a large plot. The surrounding properties all comprise spacious plots.
Building still appears to be designed with the purpose of or ability to be used as a dwelling.	This is discussed in paragraphs 6.2-6.6 of the report.
No access for emergency services.	This is not considered relevant providing the building is not used as a dwelling.
Noise disturbance if used for recreational activities.	Any ancillary building has the potential to cause noise nuisance if used inappropriately. This would be a matter for Environmental Health.
The building has largely been	The purpose of this application is to

completed without planning permission.	regularise the current situation and the future use of the building.
No parking provision.	No parking is required providing the building is used for ancillary purposes.

8. Recommendations

- A) That planning permission be granted, subject to the completion of a s.106 unilateral undertaking by 14th December 2018, to prevent the use of the outbuilding as habitable accommodation or as a single dwelling and the following conditions:

Conditions

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved drawings:-

Site location plan
CD-01A

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The external walls and roof of the building shall be finished in materials to match the colour and appearance of the existing house, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of the character and appearance of the area.

Informatives

1. Consideration of the proposal in a positive and proactive manner.
2. Building Regulations.
3. Hours of construction.

- B) That, in the event a s.106 unilateral undertaking is not completed by 14th December 2018, the application shall be refused for the following reason:
1. The proposed building, by reason of its scale and design, would not in itself be incidental to the use of the main dwelling house. The building as proposed, served by domestic utilities, would be capable of use as habitable accommodation or as a self-contained dwelling. Such a use in this location would not provide acceptable living conditions for future occupiers and would be detrimental to the amenities of neighbouring properties, contrary to policies UD1 and SS1 of the Watford Local Plan Core Strategy 2006-31 and paragraph 8.16 of the Residential Design Guide.