

Committee date	Wednesday, 4 September 2019
Application reference	19/00543/FULH
Site address	125 Cassiobury Park Avenue
Proposal	Retrospective application for the change of use of the outbuilding to gym, childrens' entertainment and leisure room with shower room and WC facilities
Applicant	Dr Ziya Arif
Agent	Mr Martyn Simister
Type of Application	Householder Planning Permission
Reason for committee Item	Over 5 objections received
Target decision date	Extended by agreement to 6 th September 2019
Statutory publicity	Letters to adjoining and neighbouring properties
Case officer	Alice Reade, alice.reade@watford.gov.uk
Ward	Park

1. Recommendation

Grant Conditional Planning Permission subject to S106 agreement as detailed in section 8 of the report.

2. Site and surroundings

- 2.1 The subject property is a two storey semi-detached dwelling located within a primarily residential area. It sits on the northern side of Cassiobury Park Avenue and backs onto Cassiobury Park to the north.
- 2.2 The property has a rectangular plot with rear garden of approximately 26m deep. The property has undergone extensive extensions with a loft conversion, including a hip to gable end extension and rear dormer, single storey side and rear extensions and a front porch. A brick garden building has also been built of 8.3m width by 5m depth.
- 2.3 The property is not listed and is not located within a Conservation Area.

3. Summary of the proposal

3.1 Proposal

- 3.2 Retrospective application for the change of use of the outbuilding to gym, childrens' entertainment and leisure room with shower room and WC facilities.
- 3.3 The outbuilding was approved as a 'garden room' under permission 16/00128/FULH. The building however includes electricity, central heating, hot water and shower room with WC and shower.

3.4 Conclusion

- 3.5 The provision of the facilities in the outbuilding are acceptable provided the use of the outbuilding remains incidental to the use of the main dwelling house. This is secured by a legal agreement which restricts the change of use of the outbuilding to a self-contained accommodation. Subject to this legal agreement, 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 99/00156/FUL Conditional Planning Permission 16.06.1999 Erection of a single storey side, and single storey rear extensions

15/01617/LDC Grant Lawful Development Certificate 12.01.2016 Lawful Development Certificate for hip to gable loft conversion with rear dormer.

15/01790/FULH Refuse Planning Permission 18.02.2016 Erection of a first floor rear extension and part single, part double storey side to rear extension and detached garden room.

Reason for Refusal:

1. The proposed development by reason of its lack of a set back from the front flank wall and 1m gap from the side boundary with no 127, would result in a size, bulk and design which would be an incongruous form of development within a streetscene that predominantly comprises modest sized two storey semi-detached dwellings. Furthermore, the gable ended roof form which is not set down from the ridge, would fail to reflect the hipped roof form of the existing house and would exacerbate the bulk of the extension. As such, the proposed development would not be sympathetic to the appearance of the existing dwelling and would have a detrimental impact on the character of the building and surrounding properties within the vicinity of the site and by reason of its depth, scale and close proximity to the neighbouring building it will have an overbearing impact when viewed from the adjoining gardens, resulting in the loss of amenities to the adjoining occupiers. Therefore, the proposed development is contrary to Policy UD1 of the Watford Local Plan Core Strategy 2006-31, Section 7 of the National Planning Policy Framework and the Watford Residential Design Guide, which, among other things, seeks high quality design in all new development.

16/00567/FULH Conditional Planning Permission Erection of a first floor rear extension, single storey side to rear extension and detached garden room.

16/01253/HPD Grant Prior approval. The erection of a single storey rear extension which would extend beyond the rear wall of the original house by 6.0m for which the maximum height would be 3.6m and for which the height of the eaves would be 2.8m

16/01723/FULH Conditional Planning Permission Proposed erection of first floor rear extension and single storey side to rear extension. (Revision of 16/00567/FULH)

18/00128/FULH Conditional Planning Permission Erection of a front porch and retention of revised roof over extension. (Committee decision 25th April 2018)

6. Main considerations

6.1 The main issues to be considered in the determination of these applications are:

(a) The use of the outbuilding

(b) Impact on the residential amenities of neighbouring properties

6.2 (a) The use of the outbuilding

Garden outbuildings are generally appropriate in residential areas when their uses are incidental to the use of the dwellinghouse. Non incidental uses would include, but is not limited to, independent business premises or independent dwellings. These non-incidental uses can create unacceptable habitable accommodation, harm to the built form of an area and harm the amenities of the neighbouring occupiers.

6.3 Determining the nature of the incidental use is a case by case matter considering factors such as the size and location of the building, its relationship to the main dwelling, its facilities, its amenities and the intended use by the current occupier.

6.4 The outbuilding at the property was granted planning permission as a 'garden room' under the 2016 planning permission (16/00567/FULH). This determined that the building was acceptable for a use incidental to the dwellinghouse.

6.5 The amended layout of this building to include a shower room with WC would be different to the garden room approved and could facilitate a use that was not incidental to the main dwelling.

6.6 The application states that the use is to be a gym, children's entertainment and leisure room with shower room and WC facilities. The submitted plan shows the layout of the main room and the adjacent store and shower room. This indicates the layout of the main room with a sofa, a pool table and gym machines and equipment. The application supporting statement asserts that the shower room and WC facilities are required and appropriate to serve the intended activity uses. With the location of the house and its bathrooms within 20m of the outbuilding, this is not entirely justified. Furthermore, at the time of the officer's site visit, this main room area contained large sofas, a bookcase and cupboards. No gym equipment was present

and the provision of the WC and shower facilities would not appear to be required for the reasons detailed in the supporting statement.

- 6.7 Notwithstanding this, the applicant has agreed to enter into a s106 legal agreement. This is in the form of a Unilateral Undertaking which states that the current (or future owner) are required to use the outbuilding only for purposes incidental to the dwellinghouse on the Land and at no time for primary living accommodation or as a separate self-contained dwelling or primary living accommodation.
- 6.8 By virtue of this agreement, it is reasonably secured that the use will remain incidental to the dwellinghouse and not primary living accommodation.
- 6.9 *(b) Impact on the residential amenities of neighbouring properties*
The internal facilities of the outbuilding do not, in themselves, create impact to the amenities of neighbouring occupiers. The use of the building for residential purposes incidental to the main dwelling is reasonable in a residential area and this again would not create unreasonable harm to neighbours.
- 6.10 Non-incidental uses could however create unreasonable harm to neighbours and this is again prevented by way of the agreed legal agreement that prevents non-incidental uses.

7. Consultation responses received

- 7.1 **Statutory consultees and other organisations – None**
- 7.2 **Internal Consultees – None**
- 7.3 **Interested parties**

Letters were sent to 6 properties in the surrounding area. Objections have been received from 7 properties. The main comments are summarised below, the full letters are available to view online:

Comments	Officer response
The genuine intended use of the outbuilding is questioned. The shower room is not required for the reasons stated and the outbuilding could be used as an independent bungalow.	It is noted that the facilities of the outbuilding may allow it to be used as independent accommodation. This would not be acceptable in planning terms. The applicant has agreed to enter into a legal agreement to secure the use as incidental to the main dwelling. This restriction applies to the property and would transfer to any future owner of the property.
A similar outbuilding was refused at 22 Cassiobury Park Avenue. [Application ref 19/00399/LDC]	This was not the same type of application for planning permission and so is not directly relevant. Within limits of size and use,

	<p>outbuildings can be built without planning permission under Government rules on Permitted Development. The application at No. 22 was for a Lawful Development Certificate which sought to confirm that the outbuilding could be built without planning permission. The Council determined that the outbuilding was not of a size and layout that would be incidental to the house and so this was not Permitted Development. This means that planning permission is required for the outbuilding proposed at No.22 and this would need to be assessed under a planning application.</p> <p>It has already been determined that the outbuilding at no. 125 Cassiobury Park Avenue requires planning permission with a shower room with WC facilities is being assessed under this application.</p>
The use of the outbuilding as an entertainment room for teenagers could create noise disturbance and anti-social behaviour.	This is unfounded assertion. Within a residential area, it is reasonable to expect residential activities to take place at properties. Should any activity at any property create unreasonable disturbance, this is an Environmental Health matter.
The outbuilding is too large and is out of keeping with the area.	The size and scale of the building as a garden room was assessed under application 16/00567/FULH. This determined that the size of the building for its location and context was acceptable in design terms. This application seeks to regularise the use of the outbuilding with its facilities, and secure it as incidental to the dwellinghouse.
The plumbing and facilities have already been installed.	This application is retrospective however the material planning considerations are assessed in the same way.

8. Recommendation

That planning permission be granted subject to a s106 agreement to secure the heads of terms and subject to the conditions listed below:

Section 106 Heads of Terms

- (a) To use the outbuilding comprising the development only for purposes incidental to the dwellinghouse on the land and at no time for primary living accommodation or as a separate self-contained dwelling.

Conditions

1. The development shall be carried out in accordance with the following drawings, unless otherwise approved in writing by the Local Planning Authority. The following drawings are hereby approved: Site Location Plan 1:1250, CPA-125/8 and CPA-125/9.

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

Informatives

IN907 – Positive and proactive statement
IN914 - S106 Agreement