LDC (Proposed) Report	Application number	2023/3081/P
Officer	**Expiry date**	
Geri Gohin	21/09/2023 Agreed Extension of Time Date: 11/10/2023	
Application Address	**Authorised Officer Signature**	
14 Greenaway Gardens London NW3 7DH		
Conservation Area	**Article 4**	
Redington Frognal	**Basements**	
Proposal		
Two single storey outbuildings in rear garden (pool filtration and irrigation stores).		
Recommendation:	**Refuse Lawful Development Certificate**	

1. Site Description:

1.1 The site consists of a detached two-storey dwelling house with additional floorspace in the roof and basement, located on the north-eastern side of Greenaway Gardens.

1.2 The site is in Redington Frognal Conservation Area and makes a positive contribution to the Conservation Area. The proposal relates to two single storey outbuildings in the rear garden (pool filtration and irrigation stores).

1.3 The proposals are assessed under Class E (development within the curtilage of a dwellinghouse), Part 1, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO)

2. Relevant planning history:

At the application site:

2021/0984/P - Demolition of summerhouse in rear garden and landscaping works. **Granted planning permission 20/08/2021**

This permission was granted subject to conditions requiring details to be approved prior to the work commencing. The following Approval of Details application has been submitted and approved in relation to this application:

2021/5709/P - Details of condition 6 (written scheme of investigation) pursuant to planning permission 2021/0984/P dated 20/08/21 for the demolition of summerhouse in rear garden and landscaping works. **Details approved 24/01/2022**

2021/5768/P - Details of condition 3 (hard and soft landscaping) pursuant to planning permission 2021/0984/P dated 20/08/21 for the demolition of summerhouse in rear garden and landscaping works. **Details approved 29/03/2022**

Condition 3 is relevant to the current proposal and states:

No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the local planning authority in writing. Such details shall include details of any proposed earthworks including grading, mounding and other changes in ground levels. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of policies A2, A3, D1 and D2 of the London Borough of Camden Local Plan 2017 and policies BGI and BGI 2 of the Redington and Frognal Neighbourhood Plan 2020.

2021/6257/P - Partial demolition of existing dwelling with retention of the front facade and parts of the side and rear facades and the erection of a basement extension, infill rear extension, various minor changes to the fenestration and other associated works. **Granted planning permission subject to a Section 106 Legal Agreement on 30/11/2022**

This permission was granted subject to conditions requiring details to be approved prior to work commencing. The following Approval of Details application has been submitted and approved in relation to this application:

2022/5282/P - Details pursuant to conditions 5 (Chartered engineer) and 6 (Green roof) of planning permission ref: 2021/6257/P dated 30/11/2022 for: partial demolition of existing dwelling with retention of the front facade and parts of the side and rear facades and the erection of a basement extension, infill rear extension, various minor changes to the fenestration and other associated works**. Details approved 26/01/2023**

2022/5503/P - Details pursuant to condition 8 (basement design or construction methodologies) of planning permission ref: 2021/6257/P dated 30/11/2022 for: partial demolition of existing dwelling with retention of the front facade and parts of the side and rear facades and the erection of a basement extension, infill rear extension, various minor changes to the fenestration and other associated works**. Details approved 02/02/2023**

2023/2204/P - Amendment to condition 2 (approved plans) to planning permission 2021/6257/P dated 30/11/2022 for partial demolition of existing dwelling with retention of the front facade and parts of the side and rear facades and the erection of a basement extension, infill rear extension, various minor changes to the fenestration and other associated works. Namely, amendment of the construction and demolition management plan pro forma associated with the relocation of welfare facilities from the centre of the garden to the rear garden (formerly the tennis court)**. Non-Material Amendments approved 04/09/2023**

2023/2730/P - Details of facing materials required by condition 4 of planning permission 2021/6257/P, dated 30/11/2022 for: Partial demolition of existing dwelling with retention of the front facade and parts of the side and rear facades and the erection of a basement extension, infill rear extension, various minor changes to the fenestration and other associated works**. Currently under consideration**

2022/5583/P (Proposed Certificate of Lawfulness) - Five single storey outbuildings in rear garden. **Refused 12/06/2023**

Reason for Refusal - The proposed outbuildings by reason of their scale, number and intended use, fail to be of a purpose incidental to the enjoyment of the dwellinghouse as such, contrary to Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2023/3072/P (Proposed Certificate of Lawfulness) - One single storey outbuilding (pool hall) in rear garden. **Currently under consideration**

2023/3074/P (Proposed Certificate of Lawfulness) - One single storey outbuilding (gymnasium) in rear garden. **Currently under consideration**

2023/3078/P (Proposed Certificate of Lawfulness) - One single storey outbuilding (games hall and gallery) in rear garden. **Currently under consideration**

Other relevant history:

- APP/Z3635/X/21/3275492 – 28 Ash Road, Shepperton, TW17 0DN – **Appeal dismissed 07/11/2022**
- APP/R0660/X/22/3294400 – 9 Lees Lane, Newton, Mottram St Andrew, Cheshire, SK10 4LJ – **Appeal dismissed 04/10/2022**
- APP/H4315/X/20/3264529 – Vista Cottage, Millfield Lane, Haydock, WN4 0YF – **Appeal dismissed 26/05/2021**
- APP/B1930/X/21/3288857 12 Marshalls Heath Lane, Wheathampstead, St. Albans, AL4 8H – **Appeal dismissed 11/08/2022**

See Appendices a) to d) for copies of the decisions

Schedule 2, Part 1 (Development within the curtilage of a dwellinghouse) Class 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 (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas		
If yes to any of the questions below, the proposal is not permitted development		Yes/no
E.1 (a)	Is permission granted to use the dwellinghouse as a dwellinghouse only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use)?	No
E.1 (b)	As a result of the works, will the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)?	No
E.1 (c)	Would any part of the building, enclosure, pool or container be situated on land forward of a wall forming the principal elevation of the original dwellinghouse?	No
E.1 (d)	Would the building have more than a single storey?	No
E.1 (e)	Would the height of the building, enclosure or container 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	 No No

	2 metres of the boundary of the curtilage of the dwellinghouse, or (iii) 3 metres in any other case?	No
E.1 (f)	Would the height of the eaves of the building exceed 2.5 metres?	No
E.1 (g)	Would the building, enclosure, pool or container be situated within the curtilage of a listed building?	No
E.1 (h)	Would it include the construction or provision of a verandah, balcony or raised platform?	No
E.1 (i)	Would it relate to a dwelling or a microwave antenna?	No
E.1 (j)	Would the capacity of the container exceed 3,500 litres?	N/A
E.2	In the case where any land is 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 Would the total area of ground covered by buildings, enclosures, pools and containers be situated more than 20 metres from any wall of the dwellinghouse exceed 10 square metres?	N/A

Is the property in a conservation area? Yes. If YES to the question below then the proposal is not permitted development:

The property is located in a conservation area.

E.3	Would any part of the building, enclosure, pool or container be situated on land between a wall forming a side elevation of the dwellinghouse and the boundary of the curtilage of the dwellinghouse?	No
E.4	**Interpretation of Class E**	
	For the purposes of Class E, "purpose incidental to the enjoyment of the dwellinghouse 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 dwellinghouse	Does not comply (refer to section 4 for full assessment)

3. Consultation:

3.1 There is no statutory requirement to consult on lawful development certificate applications. Nevertheless, residents or local groups can comment or object to this type of application. As this application is for a Lawful Development Certificate the assessment is purely a legal determination as to whether it complies with terms of Schedule 2, Part 1, Class E of the General Permitted Development Order (GPDO) 2015 (as amended). Policy considerations are not material and cannot be taken into account as a matter of law.

3.2 22 objections and 1 comment have been received during the course of the application from the following addresses:

- Redington Frognal Neighbourhood Forum
- Heath & Hampstead Society
- Nos 12, 15 (Flat 2), 15A, 15B Greenaway Gardens
- Nos. Copper House 2X, 4, 4B, 6, 8, 8A, Flat B, 10 Chesterford Gardens
- Cllr Linda Chung

3.3 Representations have been received commenting on all four certificate applications for the proposed five outbuildings. The grounds of objection for all five outbuildings are summarised below:

Consultation & Process

- Why was this not part of the original application?
- Is a repeat of the same application in 4 different applications, have broken down this massive development into its various components
- By dealing with just one scheme at a time it might look like a more modest development
- To consider any one as meriting approval is a blatant misuse of the regulations, to allow one, is to allow all, because of the precedent effect, the cumulative impact, should be a precedent be allowed, stares us in the face

Size & Design

- One does not routinely see such structures in the garden in a Conservation Area
- Modern buildings of this size/scale do not belong
- Completely out of proportion and character
- Substantial sports centre buildings development/mini-development in their own right
- More suited to a leisure centre or hotel than a home

Trees/Landscape

- Affect the biodiversity and nature of the area, local habitat
- Impact on fauna and flora, some species are under threat, damage to nature
- The area is grass/trees replaced to a large extent by 5 concrete buildings
- Area characterised by its large gardens and mature trees
- Plans involve the removal of mature trees and shrubs
- Original plans for the garden, which were previously submitted and approved, involved a sympathetic landscaping plan mixing terraces and green spaces
- Witnessed the destruction of over 30 mature trees
- The applicant claims “landscaping works… are now substantially complete” however, there’s no sign of any “landscaping work” even begun

Noise

- Massive noise beyond anything acceptable, disruption and non-stop drilling already
- Noise pollution
- Large articulated lorries coming into the road on multiple occasions throughout the week, traffic disturbance
- Current machinery humming

Legislation

- Need for Camden to urgently consider an article 4 Direction
- Would set a terrible precedent

Amenity

- Considerable adverse visual impact for multiple neighbours
- Inappropriate siting of any building right at the boundary with many neighbours adjoining gardens
- View from all the flat owners who don't have use of the gardens but look down, straight out to the Greenaway Gardens site

Flooding

- Plans pose a new environmental hazard with regards to rain absorption. With underground water sources there is a high-water table in the area and gardens can quickly become waterlogged. Impact of the buildings on water absorption levels in this large garden could have major consequences on neighbouring properties

The proposed works would conflict with one or more conditions imposed on the already implemented Planning Permission 2021/0984/P and therefore fall foul of article 3(4)

- The proposals conflict with planning consent 2021/0984/P with regard to policies SI 2, CC1 and no assessment of carbon emissions provided as well as conditions 3 and 4 that have not being met

Not incidental to the enjoyment of the dwellinghouse

- In Emin v Secretary of State for the Environment it was held that consideration of size alone when considering whether or not the development was "incidental" was unlawful. The Judge went on to hold that the scale of activities proposed could be relevant.
- It falls into the category of unrestrained whim, not "reasonably required" but a luxury, lacking in reasonableness
- Common hobby that everyone regularly enjoys without "reasonably requiring" the facilities in their own home. If he were to pick up bowling perhaps a bowling alley might be next?
- House already large (further extended in the basement), how this extra space is needed and why could it not be accommodated in the main building?
- It does not justify their needs to have extra buildings to cater for their hobbies and exercises

Environment impact

- Air pollution
- Completely unnecessary to have two buildings for pool equipment, could easily be subsumed into a single pool building, a single building could provide a pool and a gym, significantly less impact

on the environment

Other matters

- Objects to the massive crane in the garden as is a danger to life
- Incorrect site boundary line on diagrams and plans
- On-site foundation work indicating that both the plans and the calculations for assessing permitted development ground areas are not fully representative of these buildings' actual footprint areas
- Request a Stop order on the preparatory work which we believe has started before grant of approval

3.4 The grounds of objection for the pool filtration and irrigation stores (two outbuildings) are summarised below:

- It concerns two buildings that also relate to 2023/3072/P so all three buildings should be viewed together, as each is dependent on the other
- They will generate noise pollution and vibration coming from the proposed pool machinery (which will be constant, unbearable and unyielding) affecting use of gardens
- Outbuildings far from the house but close to/at the boundary with neighbours' gardens, rather than underground beneath the proposed pool. Not adjacent to the pool hall as stated in the statement
- At least ensure that pool pumps are sound proofed
- The insinuation that the buildings proposed to be replaced were themselves erected under PD rights is false, as the relevant buildings existed before the PD legislation was enacted
- The pool filtration building is in fact far bigger than the shed it replaces
- Large size, not "like for like" footprint as claimed in the Cover Letter
- The original shed was 2.2m x 2.9m and the proposed pool filtration room looks multiples larger
- They fell mature sycamores against the brick wall adjacent to 6 & 8 Chesterford Gardens, to be replaced by a noisy pool filtration outbuilding

4. Assessment:

4.1 The proposal is for two single storey outbuildings in the rear garden (pool filtration and irrigation stores). It is considered that such works can be assessed against Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). The Council has considered the evidence provided on the proposed use of the buildings and the legal opinion which has been provided.

4.2 The proposed changes include two outbuildings in a very large T shaped rear garden, although as can been seen from the planning history there are another three applications under consideration for an additional three outbuildings within this garden (references: 2023/3072/P, 2023/3074/P and 2023/3078/P). The details of the outbuildings subject to this application proposal alongside the other certificates currently under consideration cumulatively are the same as the proposals previously

refused under application reference: 2022/5583/P or 'five single storey outbuildings'. The proposals subject of this application include:

- A Shed to house pool filtration equipment and garden store (maximum length: 6.2m, height: 2.5m, maximum width: 5.4m)
- A Shed to house irrigation equipment (length: 4m, height: 2.5m, width: 2m)

4.3 The pool filtration and irrigation stores (approx. 40sqm) would consist of:

- A Shed to house pool filtration equipment (approx. 32sqm) would replace the old pool plant shed.
- A Shed to house irrigation equipment (approx. 8sqm) would replace a previous garden shed and would include plant.

4.4 The pool filtration by the very nature of its use is intrinsically linked to application 2023/3072/P for the outbuilding comprising the swimming pool as each building is dependent on the other. Therefore in assessing whether this proposal is for an incidental purpose it much be considered in light of the associated application for the swimming pool hall.

4.5 The outbuildings would be located within the curtilage of the dwellinghouse and would comply with all the size and locational limitations to which Class E is subject.

Purpose incidental to the enjoyment of the dwellinghouse

4.6 Paragraph E.4 of Class E of the "Permitted development rights for householders – Technical Guidance" (2019) states that "*purpose incidental to the enjoyment of the dwellinghouse 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 dwellinghouse*." However, Class E also recognises "*buildings such as garden sheds, other storage buildings, garages, and garden decking as long as they can be properly described as having a purpose incidental to the enjoyment of the house*". The Government's Technical Guidance makes it clear that Class E does not "*cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as bedroom, bathroom, or kitchen.*"

4.7 The dictionary definition of incidental is: "*Of a minor, casual, or subordinate nature".*

4.8 It is demonstrated in Emin v SSE 1989, the term "incidental to the enjoyment of the dwellinghouse" should not rest solely on the "*unrestrained whim*" (Sir Graham Eyre QC) of a householder and there should be some connotation of reasonableness in the circumstances of each case. Therefore, whilst size is not, in itself a determining factor, the evidence must nonetheless demonstrate that what is proposed, in terms of floorspace, is genuinely and reasonably required. Moreover, a sense of objective reasonableness is required in all the circumstances of the particular case.

4.9 The proposed new outbuildings would occupy a footprint of 40 square metres. Considering the physical size of an outbuilding in comparison to the dwellinghouse (286 square metres) it would clearly be a subordinate structure of a size which if used for another purpose could be considered as incidental to the enjoyment of the dwellinghouse. However, this proposal is for a pool filtration for a swimming pool proposed as part of a separate certificate of lawfulness application reference: 2023/3072/P which is currently under consideration. This application is reliant on the proposed outbuilding for the swimming hall and therefore cannot be considered in isolation. The applicant statutory declaration states, "*This [Pool filtration room] is located adjacent to the swimming pool hall and is needed for the proper functioning of the pool*". This swimming hall application would add a further 175.1 square metres to the proposed 40 square metres, making the outbuildings in relation to the pool three quarter the footprint of the host building. The use of the space and not just the size of the structure must be taken into consideration when assessing whether the building is incidental.

The layout of the building includes a substantial space for observation of the pool and multiple additional facilities which include a treatment room, sauna and Jacuzzi. When considered as a whole this suggests a use which extends beyond an incidental use. Given the large footprint, despite the indicated uses referred to by the applicant it could be reasonably argued that the scheme would not be used for a purpose incidental to the main dwelling house.

4.10 The following decisions are particularly relevant with regard to this proposal:

- APP/H0738/X/22/3308164 – 7 Denevale, Yarm TS15 9SA – Appeal Dismissed 18 May 2023. The proposals were for the erection of an outbuilding measuring 100 square metres to the south-east of the property. Like in this case, the case considered whether the outbuilding is required for a purpose incidental to the enjoyment of the dwellinghouse. The Inspector noted in their decision:
  - "the appellant claims a gym space of 5m x 5m would be 'small', but again there is insufficient explanation as to why the proposed gym would need to be of the size proposed for the purposes of the use of free weights and a Peloton bike and/or on-line instruction";
  - "While the appellant considers that there is a need for more [storage] space, he has not adequately demonstrated why a storage area of 7m x 4m would be reasonably required";
  - "the appellant states that the remaining space would be used as a lobby for boots, coats etc accessing the three areas. In this regard, I do not find that the building would genuinely and reasonably be required to accommodate this space and hence achieve an incidental purpose. There is nothing before me to demonstrate that space would not be available within the existing dwellinghouse to store boots and coats and the appellant has not provided sufficient clarity in terms of why 'lobby' space would specifically be needed in association with use of the outbuilding."

  The Inspector then concludes that "the evidence does not support the appellant's claim that the outbuilding would be required for a purpose incidental to the enjoyment of the dwellinghouse. Therefore, it would not constitute permitted development under Class E of Part 1 of the Schedule 2 of the GPDO".

- APP/Z3635/X/21/3275492 – 28 Ash Road, Shepperton, TW17 0DN – Decision date: 7th November 2022 - The proposal was for the erection of a garden room. Like in this case, the "*matter in contention is whether the outbuilding is required for a purpose incidental to the enjoyment of the dwellinghouse as such.*" (Paragraph 5). The Inspector went on to say that "*the outbuilding would conform to the dimensional restrictions of Class E and would be single storey in contrast to the host dwelling*" (paragraph 11), however "*the excessive space proposed leads me to find that the outbuilding proposed is not reasonably required to accommodate this use.*" (Paragraph 13).

- APP/R0660/X/22/3294400 – 9 Lees Lane, Newton, Mottram St Andrew, Cheshire, SK10 4LJ – Decision date: 4th October 2022 - The proposal was for the erection of ancillary accommodation within the curtilage existing dwelling to include cinema, gym, garage space, workshop and garden storage plus external swimming pool. In this case, in paragraph 25, the Inspector states that "*the proposed cinema room for watching films and television might be used as an extension to the primary accommodation, as an additional lounge, rather than an incidental use.*" Again, the Inspector considers "*that the appeal proposal would be an excessively large building, capable of use by several persons at a time. Notably large even when compared to the main house it purports to serve, it might suggest that the real purpose of the proposed building would not be an incidental use*."

- APP/H4315/X/20/3264529 – Vista Cottage, Millfield Lane, Haydock, WN4 0YF – Decision

date: 26th May 2021 - The proposal on this appeal was for a new single storey structure to be erected for proposed storage/home gym. The Inspector states in paragraph 11 that "*given the extent of the facility that would be provided, and because the layout appears to have been designed to be used by a number of people at any one time, I am not satisfied that its true purpose would be as an incidental use.*"

- APP/B1930/X/21/3288857 12 Marshalls Heath Lane, Wheathampstead, St. Albans, AL4 8H – Decision date: 11th August 2022. The Inspector stated that '*the critical test to be applied is firstly whether the uses of the proposed outbuilding, in the context of the whole planning unit, are intended to be and would remain ancillary and subordinate to the main use of the property as a dwellinghouse, and secondly; whether the proposed outbuilding is "reasonably required" in order to accommodate those uses*'.

4.11 In this case, the size of the pool filtration and irrigation stores combined with the proposed pool hall is excessively large and considering the nature of the use are not reasonably required. The structures are notably large and by reason of the proposed uses suggest that the real purposes of the buildings is as an extension to the primary accommodation. Furthermore, it is considered that the excessive space proposed for the buildings *is not reasonably required to accommodate the uses proposed.*

4.12 The applicant has submitted a legal opinion and a statutory declaration stating that the proposed purposes, based on a list of their functions *'are clearly incidental'.*

4.13 The legal statement provided in support of the application highlights the following case law: Emin v Secretary of State for the Environment (1989) which concludes that an assessment based on the size alone when considering whether or not the development was 'incidental' was not lawful.

4.14 Relating this to the application currently under consideration, officers are not considering the size of the outbuildings as the only factor in determining whether or not they are incidental. Officers are also considering the nature of the use.

4.15 The statutory declaration explains how the outbuildings to house pool filtration and irrigation equipment will be used. It makes clear that the pool filtrations is needed for the proper functioning of the pool. Details of the filtration equipment has not been provided, however in order to operate effectively it would need to be connected to the swimming pool therefore cannot be considered in isolation. The combined pool filtration outbuilding and pool hall would operate in such a manner which fails to be incidental to the enjoyment of the dwellinghouse.

4.16 Notwithstanding the concerns raised in respect of the pool filtration outbuilding, the garden store also subject of this appeal to house irrigation equipment is of a scale and use which is to be reasonably expected and are considered to be incidental to the enjoyment of the dwellinghouse.

Conflict with planning conditions.

4.17 The supporting legal statement provided with the original application: 2022/5583/P stated that there are no relevant planning conditions which have any bearing on the proposals. The officer's report highlighted that, the proposal would result in development which is different to the landscaping plan secured by condition 3 of planning permission: 2021/0984/P Demolition of summerhouse in rear garden and landscaping works, granted on 20/08/2021.

4.18 Condition 3 states:

No development shall take place until full details of hard and soft landscaping and means of enclosure of all un-built, open areas have been submitted to and approved by the local planning authority in writing. Such details shall include details of any proposed earthworks including

grading, mounding and other changes in ground levels. The relevant part of the works shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the development achieves a high quality of landscaping which contributes to the visual amenity and character of the area in accordance with the requirements of policies A2, A3, D1 and D2 of the London Borough of Camden Local Plan 2017 and policies BGI and BGI 2 of the Redington and Frognal Neighbourhood Plan 2020.

4.19 A landscaping plan in respect of this condition was, submitted to, and subsequently approved by the Council on 29/03/2022 under planning reference: 2021/5768/P. It is considered that the outbuildings proposed as part of the current application would conflict with the approved plans and it would involve building on area which are designated to landscaped area. The proposals would be contrary to the conditions attached to permission 2021/0984/P, and therefore cannot be considered as permitted development. The approved landscaping plan and the proposed site plan are shown below as a comparison.

4.20 The current application is supported by a legal statement which considers this matter and states Condition 3 requires implementation of the approved details but that there is no continuing maintenance obligation. However Condition 5 of this same permission states:

All hard and soft landscaping works shall be carried out in accordance with the approved landscape details by not later than the end of the planting season following completion of the development or any phase of the development, whichever is the sooner. Any trees or areas of planting (including trees existing at the outset of the development other than those indicated to be removed) which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced as soon as is reasonably possible and, in any case, by not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that the landscaping is carried out within a reasonable period and to maintain a high quality of visual amenity in the scheme in accordance with the requirements of policies A2, A3, A5 of the London Borough of Camden Local Plan 2017.

4.21 Therefore condition 5 secure the ongoing maintenance of the details approved in respect of condition 3.

4.22 Considering this the proposed development would result in a breach of conditions 3 and 5 of planning permission 2021/0984/P dated 20/08/2011 (detail subsequently approved on 29/03/2022 under planning reference: 2021/5768/P) which has been implemented on site, contrary to Article 3(4) which states 'Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order.'

Figure 1: Approved landscaping plan – approved under application 2021/5768/P

Figure 2: Proposed Site Plan

4.23 The proposal is not considered to satisfy all relevant criteria as set out under Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended); and as such, would not be permitted development and lawful. The proposed pool filtration outbuilding is needed for the proper functioning of the pool. Details of the filtration equipment has not been provided, however in order to operate effectively it would need to be connected to the swimming pool therefore cannot be considered in isolation. The combined pool filtration outbuilding and pool hall would operate in such a manner which fails to be incidental to the enjoyment of the dwellinghouse and therefore would not be permitted development. Furthermore, the outbuildings conflict with approved landscaping plan for an implemented permission.

5 Recommendation: Refuse Certificate of Lawful Development