

15 December 2020

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Dear Sir,

22 FROGNAL, HAMPSTEAD, CAMDEN, LONDON, NW3 6XE

APPLICATION FOR A CERTIFICATE OF LAWFULNESS (PROPOSED USE) UNDER SECTION 192 OF THE TOWN AND COUNTRY PLANNING ACT 1990

On behalf of our client, please find enclosed an application for a certificate of lawfulness (proposed use) for the construction of an outbuilding within the rear garden of the above address.

A Certificate of Lawfulness is sought for the following proposed development:

“Construction of an outbuilding within the dwelling’s rear garden”

The Submission

A copy of the application material has been submitted to the Council via the Planning Portal.

The submission is supported by the following documents:

Document Title	Prepared By
Completed Planning Application Forms	DP9
Extended Cover Letter	DP9
Site Location Plan (Scale 1:1250)	KSR Architects
Proposed drawings	Randle Siddley

The application has been submitted online via the Planning Portal and the requisite fee of £117.00 has been paid online.

The Site

The application site relates to 22 Frognal Way, a large single-family dwelling located within Hampstead area of the London Borough of Camden. The dwelling, which is currently subject to consented construction works is centrally located within a large plot and is located along a private road. The property benefits from large amenity area to the front and rear.

The application site is located within a predominantly residential area and lies within the boundary of the Hampstead Conservation Area

The Development

This application relates to the construction of an outbuilding for use ancillary to the enjoyment of the dwelling known as 22 Frognal Way.

The outbuilding would be located and enclosed within the rear garden of the property and would have a flat roof. The appearance of the outbuilding would largely resemble that of a garden shed, something which is a common within a residential setting.

More information, including scaled architectural drawings can be viewed in the supporting information pack produced by Randle Siddley Landscape Architects.

The Legislative Context

Householder permitted development rights are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Subject to the intended works meeting the specific requirements of the order, permitted development rights allow householders to undertake certain alterations or improvements to their dwelling, without the need to apply for formal planning permission.

Part 1 of Schedule 2 of the Order sets out the permitted development rules concerning what enlargements, improvements, alterations and other additions a householder may make to their house and the area around it without the need for an application for planning permission.

Part 1 is then sub-divided into Classes covering various types of development. The Class which is of relevance to this application is Class E, which covers the provision of buildings and other development within the curtilage of a dwelling house for:

- a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling house 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*

Under Class E, the following limits and conditions apply:

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

- a) permission to use the dwelling house as a dwelling house has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (change of use);*
- b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwelling house) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwelling house);*
- 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 dwelling house*
- d) the building would have more than a 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 dwelling house, or*
 - (iii) 3 metres in any other case*
- f) the height of the eaves of the building would exceed 2.5 metres;*
- g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;*
- h) it would include the construction or provision of a veranda, balcony or raised platform ;*
- i) it relates to a dwelling or a microwave antenna;*
- j) the capacity of the container would exceed 3,500 litres;*
- k) In the case of any land within the curtilage of the dwelling house which is within:*
 - (a) a World Heritage Site,*
 - (b) a National Park,*
 - (c) an area of outstanding natural beauty or*
 - (d) the Broads,*
- l) In the case of any land within the curtilage of the dwelling house 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 dwelling house and the boundary of the curtilage of the dwelling house*

In order to be permitted development, the proposal must meet all the limitations and conditions of Class E listed above.

Exemptions

This application relates to the construction of an outbuilding which would be ancillary to the enjoyment the residential dwelling. It does not relate in any way to a container used for domestic heating purposes or for the storage of oil or liquid petroleum gas. Consequently, limitation J of Class E is not applicable.

Furthermore, the site is not located within a World Heritage Site, National Park, Area of Outstanding Natural Beauty or the Broads. Neither does this application include the provision of microwave antenna. Consequently, limitations I and K of Class E are not applicable

Assessment

The outbuilding would be used ancillary to the enjoyment of the sites lawful and historic residential use. It would provide 20sqm of floorspace and is located within a site which benefits from substantial front and rear garden amenity space. Subsequently, it is not considered that it exceeds 50% of the curtilage of the existing dwelling. Furthermore, it is located at the rear of the property and sits comfortably within the rear garden. It is therefore not forward of the principal elevation of the dwelling. On this basis, it is considered that it complies with limitations a, b and c of Class E listed above.

Whilst the outbuilding would be located within 2 metres of a neighbouring boundary, it is only one storey and has flat roof which does not exceed 2.5 metres in height. Therefore, it is considered that the proposal complies with limitations E and F of Class E.

22 Frognal Way is not a Listed Building, nor is there a veranda, balcony or raised platform comprised within the proposed outbuilding. Limitations G and H are therefore satisfied.

Whilst the site is designated as Article 2(3) Land due to its allocation as a Conservation Area, limitation I of Class E is satisfied as the outbuilding would sit comfortably behind the rear elevation of the existing dwelling. Therefore, it would not be located on land between a wall forming a side elevation of the dwelling house and the boundary of the curtilage of the dwelling house.

Having regard to the above assessment, it is considered that the proposed outbuilding satisfies Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order (2015) (amended) and would therefore constitute permitted development, thus not requiring planning permission.

Conclusion

I trust the above and submitted supporting information is sufficient for you to reach a decision on this application, however, should you require any further information, please contact Harri Aston of this office.

Yours sincerely,

Harri Aston for and on behalf of
DP9 LTD