

Justification Statement

43 Woodcote Avenue, Mill Hill, London, NW7 2PG

For: Mr. Fani

Prepared by :

Plan My Property

5 Carlton Close

Newport Pagnell

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MK16 9AX

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This Justification Statement accompanies a permitted development application prepared by Plan My Property on behalf of Mr. Fani for an out building application.

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1.0 Introduction

1.1 This Supporting Statement accompanies a permitted development application for the proposed erection of an outbuilding at 43 Woodcote Avenue, Mill Hill.

2.0 Assessment

2.1 The proposed outbuilding complies with the requirements of Class E, Part 1, Schedule 2 of the General Permitted Development Order (GPDO) 2015, as follows:

E. The provision within the curtilage of the dwelling house of—

(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.

Our proposal complies.



Development not permitted

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 or Q of Part 3 of this Schedule (changes of use);

Our proposal complies.

- (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);

Existing site coverage excluding main dwelling = 173m²

Total extensions added to the original dwelling = 36m²

Proposed outbuilding = 36.1m²

Total site coverage with the extensions and proposed out building = 72.1m².

The site coverage is significantly less than 50%, it is in fact 41.6%.

Our proposal complies.

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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 dwelling house;

Our proposal complies.

(d) the building would have more than a single storey;

Our proposal complies.

(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;

Our proposal complies.



(f) the height of the eaves of the building would exceed 2.5 metres;

The proposed out-building is 2.5m high at its highest point.

Our proposal complies.

(g) the building, enclosure, pool or container would be situated within the curtilage of a listed building;

Our proposal complies.

(h) it would include the construction or provision of a verandah, balcony or raised platform;

Our proposal complies.

(i) it relates to a dwelling or a microwave antenna; or

Our proposal complies.

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(j) the capacity of the container would exceed 3,500 litres.

Our proposal complies.

E.2 In the case of any land within the curtilage of the dwelling house 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 dwelling house would exceed 10 square metres.

Our proposal complies.

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E.3 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.

Our proposal complies.

3.0 Justification

- 3.1 The remainder of this statement seeks to establish whether the outbuilding is “*reasonably required*” in connection with the use of the main dwelling house.
- 3.2 Class E of the GPDO sets out no absolute or relative limits on the size of outbuildings. The case of *Emin v SSE and Mid Sussex DC [1989]* makes clear that the size of an outbuilding alone cannot be the sole factor in determining whether a proposal is ‘reasonably required’.
- 3.3 The submitted drawings show clearly how the building is to be laid out, with room for study and home storage. The current working pattern of the occupants is working from home and this home office/study is urgently required.



3.4 In a number of recent appeal decisions, inspectors have accepted appellants' arguments that a proposed outbuilding is intended for conventional domestic uses. In an appeal decided in October 2015 (reference: APP/G5180/X/15/3011495, see Appendix A for the appeal decision) the inspector considered whether a pair of outbuildings (one a garage housing 5 motor vehicles, the other a games room, work room, store and utility room) with a footprint of 190sqm – much larger than the current proposal – could be considered reasonably required for purposes ancillary to the enjoyment of the dwelling house. The inspector concluded that the appellant reasonably required the garage for the storage of his collection of cars and the other outbuilding was appropriate in the context of the needs of the family. He opined:

“...it is primarily for the occupier of the dwelling house to determine what incidental uses he wishes to enjoy subject to the test of objective reasonableness. In this instance, the main dwelling is large, it is set within a large plot and, for the reasons mentioned, I find it reasonable that the appellant wishes to provide a separate building for recreational and other uses associated with the use of the main property as a dwelling house. I am, therefore, satisfied that the appellant has proven on the balance of probabilities that the games room and other rooms within this second building are required for a purpose incidental to the enjoyment of the dwelling house as such.”

3.5 In a similar appeal in September 2015 (reference: APP/H4505/X/14/3001056, see Appendix B), an inspector considered the case for a 200sqm outbuilding to house a lobby, plant/store room, shower/changing room and a swimming pool. Though the outbuilding would be 183% larger in footprint than the main dwelling, the inspector concluded that *“the building is not overlarge for its intended purpose”*, and would represent *“only 10% of the curtilage of dwelling house”*. In any case, he decided:

“...the size of the proposed building is an important consideration but is not by itself conclusive.”

3.6 In August 2015, an inspector allowed an appeal (reference: APP/P5870/X/14/2227399, see Appendix C) against a refusal to issue a certificate for an outbuilding with a footprint of 107sqm, and for use as a double garage, garden store and swimming pool with shower and changing rooms. The inspector noted:

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“The size of the outbuilding in relation to that of the dwelling house is an important consideration in this regard but is not by itself conclusive. The Court held that the term ‘incidental to the enjoyment of the dwelling house as such’ should not be interpreted on the unrestrained whim of the householder but connotes some sense of reasonableness in the circumstances of the particular case. The judgment also makes clear that the appropriate question to be asked is ‘...whether the proposed buildings are genuinely and reasonably required or necessary in order to accommodate the proposed use or purpose and thus achieve that (incidental) purpose’. This general principle was reiterated in LB Croydon v Gladden [1994] 1 PLR 2.”

3.7 He went on to say:

“I am satisfied that, in principle, facilities such as a double garage, garden store and swimming pool with shower and changing rooms may be regarded as reasonably required for incidental purposes. All are facilities that residential occupiers might reasonably aspire to in seeking to improve their quality of life. Nor is it unreasonable to assume that such facilities would be genuinely incidental to the domestic enjoyment of the property by future occupiers as well as the Appellants.”

3.8 Commenting specifically on the Council’s concerns in relation to the size of the building:

“Moreover, I do not find a disparity between the size of the envisaged outbuilding, the scale of the proposed facilities and the contention that it would be put to purposes incidental to the enjoyment of the dwelling house. Having been extended, the property is now very substantial and capable of accommodating a large family. The outbuilding would be set a considerable distance from the main dwelling, albeit still within the residential curtilage and, unquestionably, would be subordinate to it in terms of volume. The fact that its footprint would be about 45% larger than the cumulative area covered by the structures that are proposed to be, or have already been, demolished does not of itself signal that its use could not be required for genuinely ‘incidental’ purposes.

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