

LOCATION: Wyverne Lodge, Dukes Covert, Bagshot, GU19 5HU

PROPOSAL: Erection of rear swimming pool building including changing room facilities to facilitate external swim schools/teachers (retrospective) and proposed side infill extension to provide a one-way entrance and exit.

TYPE: Full Planning Application

APPLICANT: Mrs Husna Hussein-Mohammed

OFFICER: Mr Ross Cahalane

This application would normally be determined under the Council's Scheme of Delegation. However, it is being reported to the Planning Applications Committee at the request of the Executive Head of Regulatory.

RECOMMENDATION: GRANT subject to conditions

1.0 SUMMARY

- 1.1 This application seeks retrospective planning permission for the erection of a rear swimming pool building including changing room facilities, and a proposed side infill extension to provide a one-way entrance and exit.
- 1.2 Although views of the building from the street are limited, the proposal is inappropriate and harmful development in the Green Belt, as the application dwelling has already been substantially extended. However, no other harm exists in terms of character, impact on highways or residential amenities. In the officer's opinion there are very special circumstances to outweigh the harm. This includes the fact that the owner/occupier could still implement permitted development rights if the use of the premises was not part commercial and erect a similar sized swimming pool as a legitimate fallback. The commercial use itself is low key and is considered to have limited harm to the Green Belt and provides additional benefits by meeting a local community need.
- 1.3 Therefore, subject to planning conditions to remove permitted development rights on the site and restrictions on the intensity of the use the application is recommended for approval. This includes a maximum session limit of nine per day, along with an attendance limit of five per session, to avoid adverse impacts on residential amenity and the highway.

2.0 SITE DESCRIPTION

- 2.1 The application site comprises a two storey detached dwellinghouse on the southern side of Dukes Covert, a cul-de-sac off the northern side of the A322 Bracknell Road, Bagshot. The character of the area is rural and verdant, characterised by large residential properties on generous curtilages.

3.0 RELEVANT PLANNING HISTORY

Application site

- 3.1 BGR 3199 Erect one detached house and garage
Decision: Granted (21 October 1960 - implemented)
- 3.2 BGR 4675 single storey side and rear extension
Decision: Granted (implemented)
- 3.3 80/0220 single storey side and rear extension
Decision: Granted (implemented)
- 3.4 85/0121 Erect a garage and first floor extension
Decision: Granted (implemented)
- 3.5 93/0227 Erection of pitched roof over existing garages, lobby and kitchen
Decision: Granted (implemented)
- 3.6 97/0958 Erection of a single storey front extension
Decision: Withdrawn (planning permission not required - implemented)
- 3.7 16/1152 Lawful Development Certificate for the proposed erection of a front porch, two storey rear extension, roof and fenestration alterations and rear swimming pool building.
Decision: Granted (swimming pool implemented only)

Downwind, Dukes Covert (across from application site)

- 3.8 19/0576 Application for Certificate of Lawfulness for existing use of swimming pool for purposes incidental to the private enjoyment of Downwind as a dwellinghouse and by external swim schools/instructors for teaching children and adults to swim and use of existing drive for parking purposes by both the occupiers of Downwind and users of the pool for teaching purposes between 08:00 to 18:00 comprising a maximum number of 7 sessions per day and a maximum number of 8 persons in the pool area, comprising the pool and its environs, per session.

Decision: Granted

4.0 THE PROPOSAL

- 4.1 Retrospective planning permission is sought for the erection of a rear swimming pool building including changing room facilities, and a proposed side infill extension to provide a one-way entrance and exit. The building is used for commercial swimming pool lessons.
- 4.2 The swimming pool building as-constructed consists of pitched roofs with front and rear gable ends and has a maximum depth of approx. 2.5m, maximum width of approx. 9.5m, maximum eaves height of approx. 2.3m and maximum ridge height of approx. 3.2m.
- 4.3 The constructed swimming pool building's size varies from the building granted a lawful development certificate under 16/1152, as follows:
- The building as-built is approx. 9.5m longer, when including the narrower section (approx. 4m width) alongside the main dwelling side elevation. This section contains a WC room and male/female changing rooms, with a plant room adjoining at the rear;
 - The maximum ridge height of the main swimming pool roof is approx. 0.8m lower.

- 4.4 The swimming pool as-built requires planning permission, as the overall structure has a maximum height greater than 2.5m, but now contains extra footprint referred to above that is within 2m of the side boundary. Additionally, permission is required because the building is being used for part commercial use i.e. for a purpose not incidental to the enjoyment of the dwellinghouse.
- 4.5 The infill extension facilitates a fully enclosed one-way entry and exit system for external users of the swimming pool, to take into account current Covid-19 guidance. The infill extension would have a front elevation width of approx. 1.6m, and wrap around the dwelling to adjoin with the other swimming pool side elevation, with an eaves height of approx. 2.3m and maximum height of approx. 3.2m.
- 4.6 The applicant has outlined the following as the current proposed hours of use of the building for swimming lessons:
- Mondays: 10.00-12.00 and 15:30-18:00
 - Tuesdays: 09:25-11.55 and 15:00-18:30
 - Wednesdays: 13.30-15.30 and 16:00-18:30
 - Thursdays: 09.25-11.55 and 15:30-18:30
 - Fridays: 09.00-12.00 and 15:30-17:30
 - Saturdays: 08:00 to 14:00
 - Sundays: 08.05 to 13.55

The applicant has also indicated that to account for Covid-19 guidance, classes would have no more than five participants. Classes run for between 30-45 minutes, with 15 minutes needed in between for changeover. The two schools that currently use the pool provide lessons for children.

- 4.7 The site has one vehicular access with parking provided at a paved area fully across the front of the dwelling. A supporting statement has been provided by the applicant, to confirm that there are currently no more than 5 swimmers per lesson, leading to a maximum of ten cars within the front driveway at any given time. Photographs of the parking layout within the site have been provided, and the statement also sets out the local demand for these lessons and the health and social benefits - which are outlined in Section 7.6 below.

5.0 CONSULTATION RESPONSES

- 5.1 Windlesham Parish Council: Objection made for the following reason:
- The Committee noted that it does not support retrospective applications. It also queried if the pool is in business use and therefore make the appropriate application for this.
- [Officer comment: A planning condition is proposed to restrict the hours of use and the number of participants]*

6.0 REPRESENTATION

- 6.1 At the time of preparation of this report, a representation of support from one neighbour, and objections from two neighbours, have been received.
- 6.2 The representation of support comments that the building has been built to a high specification and the wooden structure compliments the woodland setting of the area.
- 6.3 The objections raise the following concerns:
- Cars in relation to swimming class business have been parked on the narrow road, blocking driveways and forcing large vehicles to mount pavements
 - Single access in and out of property is difficult

- Road is poorly lit and these obstructions could pose a danger for pedestrians in the evening
- No existing or proposed Master Plan showing car parking and access - insufficient space for the needed swimming pool car parking
- No statement to include the proposed hours and overall access arrangements

[Officer comment: See Sections 7.4 and 7.5]

- Applicants have purposefully misled Council by changing building specification from what was approved and then commencing and then commencing a swimming pool business
- Retrospective proposal is not lawful – it has not been in continuous use for more than 10 years, unlike Downwind (19/0576/LDC)

[Officer comment: Each application must be considered on its own planning merits based on site-specific circumstances]

- Loss of business from neighbouring swimming pool

[Officer comment: This is not a material planning consideration]

7.0 PLANNING ISSUES

7.1 The application proposed is considered against the policies within the Surrey Heath Core Strategy and Development Management Policies Document 2012 (CSDMP), and in this case the relevant policies are Policies DM9, DM10 and DM11. The National Planning Policy Framework (NPPF) and the advice contained within the Council's Residential Design Guide Supplementary Planning Document (RDG) are also material considerations to the determination of this application. The main issues to be considered are:

- Principle and appropriateness of development in the Green Belt;
- Impact upon the character of the area;
- Impact on residential amenity;
- Impact on access, parking and highway safety, and;
- Other matters.

7.2 Principle and appropriateness of development in the Green Belt

7.2.1 Paragraph 145 of the NPPF states that:

“A local planning authority should regard the construction of new buildings as inappropriate in Green Belt”.

One of the listed exceptions at paragraph 145 is:

“the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building”

7.2.2 The NPPF does not provide any guidance as to whether outbuildings can be considered as extensions rather than as new buildings. The swimming pool building as-built is considered to be sited sufficiently near to the main dwelling to be assessed as an adjunct to it and therefore an extension for the purposes of para 145 c) of the NPPF. However, as set out in the planning history in Section 3 above, the application site main dwelling has already been substantially extended from its original form. The dwelling as originally built has a footprint of approx. 112 sq m, and this has been extended by approx. 70 sq. m, leading to an approx. 62% increase from its original form (70 / 112 x 100), with the narrower extension on the southeast side being two storey in form an integrating with the original main roof.

- 7.2.3 The swimming pool building, along with the proposed infill extension, amounts to a total footprint of approx. 222 sq m. leading to a cumulative increase of approx. 284% from its original form (70 + 222 / 112 x 100). Therefore, given the additional footprint in relation to the main dwelling as originally built and given the accumulation of extensions since, the swimming pool building alone and coupled with the proposed infill extension clearly represents disproportionate additions and is therefore inappropriate development in the Green Belt. Furthermore, the development would be harmful to the openness of the Green Belt given its size and given the spread of development over the site.
- 7.2.4 Moreover, the commercial use of the site, particularly unfettered, has the potential to have an urbanising effect upon the Green Belt. This is because of the parked cars and the comings and goings of vehicles and visitors.
- 7.2.5 Given the identified Green Belt harm, very special circumstances are required to clearly outweigh this harm and any other harm. The following paragraphs firstly consider whether any other harm exists and then section 7.6 considers very special circumstances.

7.3 Impact on character of the surrounding area

- 7.3.1 Policy DM9 (Design Principles) seeks to promote high quality design that respects and enhances the local environment, paying particular regard to scale, materials, massing, bulk and density. Principle 10.1 of the RDG advises that extensions will be expected to be subordinate and consistent with the form, scale and architectural style and materials of the original building. Developments that are over-dominant or out of keeping will be resisted.
- 7.3.2 The current swimming pool building contains wooden external cladding, with low eaves level and maximum ridge height of approx. 3.2m. The additional built footprint from the 16/1152 scheme, extends around the side elevation of the main dwelling and up to its front elevation line, but has a narrow width and low height when compared to the host dwelling. The additional proposed infill extension would integrate with the existing sloped roof forms. A planning condition can be imposed to ensure that matching external materials are used. It is considered that the single storey scale and positioning would respect the character of the existing dwelling, with views from the streetscene along the front limited.
- 7.3.3 The use of the swimming pool for lessons would impact on the residential character of the area in terms of trip movements and parking of vehicles. In order to limit this impact to an acceptable level, controls are proposed under Section 7.4 below in terms of hours of use, number of attendees per session and number of sessions per day.
- 7.3.4 Therefore, notwithstanding the Green Belt objection outlined in Section 7.2 above, it is considered that the swimming pool building and the proposed extension to it would sufficiently respect the architecture of the existing dwelling and the character of the surrounding area, thus complying with the design requirements of Policy DM9 and of the CSDMP and the RDG.

7.4 Impact on residential amenity

- 7.4.1 Policy DM9 (Design Principles) states that the amenities of the occupiers of the neighbouring properties should be respected by proposed development. Principle 10.1 of the RDG SPD advises that extensions should not result in a material loss of amenity to neighbouring properties as a result of overshadowing, eroding privacy or being overbearing.
- 7.4.2 The main side elevation of the current swimming pool building is sited approx. 2m from the rear garden side boundary with the detached dwelling of Tanglewood to the southeast. However, it is considered that the site orientation and the separation distance from the rear elevation of this neighbour is sufficient to avoid adverse harm in terms of loss of light, outlook, privacy or overbearing impact. No side elevation windows face this neighbour, and a planning condition can be imposed to secure this.

- 7.4.3 The current swimming pool building is sited approx. 15m from the other rear garden side boundary with the detached dwelling of Treetops to the northwest. It is considered that this separation distance is sufficient to avoid adverse impact on the residential amenity of this neighbour.
- 7.4.4 The proposed infill extension would not project beyond the existing front or rear elevations of the swimming pool building. Therefore, it is not considered that this infill extension would lead to adverse impact on neighbouring amenity.
- 7.4.5 The application site only benefits from one vehicular access. However, the entire area in front of the application is paved, with the natural ground level declining noticeably towards the main dwelling. There is also mature shrubbery and a mixed wall/fenced enclosure along the front boundary, which restricts views of vehicles from the streetscene.
- 7.4.6 The recently granted lawful development certificate (19/0756) at the dwelling of Downwind (opposite the application site) has established that a swimming pool at this neighbouring site has been in use for a number of years for teaching purposes, between 08:00 to 18:00 - comprising a maximum number of 7 sessions per day and a maximum number of 8 persons per session. Although this dwelling has two vehicle accesses to allow for generous off-street parking, this activity would still have an appreciable impact on the character of the area in terms of vehicle movements, and is now deemed to be lawful.
- 7.4.7 As set out in Section 4 above, the applicant has proposed restrictive time periods for lessons, and a planning condition can control the hours of use. It has also been indicated that to account for Covid-19 guidance, classes would have no more than five participants. Therefore, it is considered that if this attendance limit was also included in the above planning condition in perpetuity, it would limit the number of trips to an acceptable level, bearing in mind what is deemed lawful under 19/0756. A maximum session limit of eight per day is considered appropriate, given the weekday hours of 08:00 – 18:30 proposed and subject to an attendance limit of five per session. It also considered appropriate to allow no lessons beyond 14:00 on Saturdays, Sundays, with no lessons allowed on Bank Holidays. Subject to this condition, it is considered that the development would not have an adverse impact on the residential amenity of the area in terms of trip movements, parking of vehicles and general noise and disturbance, to accord with Policy DM9 of the CSDMP and the RDG.

7.5 Impact on access, parking and highway safety

- 7.5.1 Policy DM11 (Traffic Management and Highway Safety) states that development which would adversely impact the safe and efficient flow of traffic movement on the highway network will not be permitted unless it can be demonstrated that measures to reduce and mitigate such impacts to acceptable levels can be implemented.
- 7.5.2 As already stated, although the application site only benefits from one vehicular access, the entire area in front of the dwelling is paved, with the natural ground level declining noticeably towards the main dwelling. This parking area has a maximum depth of approx. 14m and maximum width of approx. 35m, which would allow for a good amount of parking and turning space. At the time of the most recent site visit, which covered a changeover period between lessons, up to ten parked vehicles were observed within this paved parking area, including swim instructor, users of the lessons, and vehicles associated with the application main dwelling, including a domestic cleaner. It was also noted that vehicles emerging from lessons had sufficient turning space to exit the site in forward gear.
- 7.5.3 It is considered that subject to the recommended planning condition restricting the hours of use, the numbers of classes and numbers of participants, sufficient space within the existing front driveway would remain for off-street parking. The Local Planning Authority is therefore satisfied that the proposal would not conflict with the aims of Policy DM11 of the CSDMP.

7.6 Very Special Circumstances

7.6.1 Paragraph 144 of the NPPF states that:

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The preceding paragraphs of this report identify harm to the Green Belt but no other material harm to character, residential amenities or the highway.

7.6.2 The applicant's has provided a statement outlining the social benefits of the proposal, which is discussed in Para 7.6.7 below. Case law has held that all factors which are in favour of a grant of planning permission for inappropriate development in the Green Belt are capable of contributing towards the assessment of very special circumstances. Whether the very special circumstances test is met, on the facts of a particular proposal, is a matter for the decision-maker.

7.6.3 It is the quantum of built form, rather than the commercial use of the building, that causes the most discernible harm to the Green Belt. In the officer's opinion the harm caused by the use is limited, particular when the impacts of this can be controlled by robust planning conditions and this use by itself has a negligible effect upon openness. As such it is reasonable to compare the swimming pool as built with what the applicant could otherwise build under permitted development and if the pool was built and solely used for domestic purposes. The 16/1152 lawful development certificate therefore remains a legitimate fall-back position and a size comparison is given in the table below.

	Current proposal	16/1152 outbuilding	Unimplemented 16/1152 extensions
Footprint	222 sq m (incl. 28 sq m proposed infill)	156 sq m	30 sq m
Height	3.2 m	4 m	7m
Difference from proposal		- 66 sq m in footprint + 0.8m in height	- 36 sq m (cumulative footprint – including 16/1152 outbuilding) + 3.8m in height

7.6.4 The swimming pool building as originally built has a footprint approx. 38 sq. m greater than the 16/1152 building. However, the maximum ridge height is approx. 0.8m lower than the 16/1152 building. The proposed infill extension would lead to an additional footprint of approx. 28sq m. However, this would also be single storey and significantly lower in height than the unimplemented two storey rear extension

7.6.5 The front porch and two storey rear extension, as also authorised in the 16/1152 lawful development certificate, have not been implemented. These unimplemented extensions would have a footprint of approx. 30 sq m. The additional swimming pool footprint (including proposed infill) would still be approx. 66 sq. m greater than these unimplemented extensions. However, the pool building would remain significantly lower in height than the unimplemented two storey rear extension. Additionally, the proposed infill extension would be largely sited between the main dwelling and swimming pool side elevation, which would mitigate the visual impact on the Green Belt.

- 7.6.6 More crucially, the volume coverage associated with the combined proposed swimming pool footprint increase of approx. 66sq m, with ridge height of approx. 3.2m, would still remain similar to the unimplemented two storey rear extension. This is because although this unimplemented extension would have a smaller footprint of approx. 28 sq m, it would have a much greater bulk on account of its full two storey form and maximum ridge height of approx. 7m.
- 7.6.7 The applicant's supporting statement argues that as well as a sport, swimming is a lifesaving skill and a form of exercise that is very much needed in this day and age for the younger generation. The statement sets out a number of particular health and social benefits arising from the use of the swimming pool for lessons, including combating child obesity rates and developing wellbeing and personal skills such as confidence and leadership. The two schools that currently use the pool provide lessons for children and also operate from other locations in the region. The property of Downwind opposite has also been providing swim lessons for children for a number of years, as set out in application 19/0576. As such, there appears to be strong demand in the area for these lessons. The NPPF also supports planning decisions that enable and support healthy lifestyles.
- 7.6.8 The proposed condition limiting hours of use, sessions per day and number of attendees per session, would limit the intensity of such a use in the Green Belt. Subject to this condition, it is not considered that this use would in itself be harmful to the Green Belt. On this basis, weight can also be given to the use of the building providing swimming pool lessons for children.
- 7.6.9 In light of all the above, in this instance it is considered that subject to the above condition, and an additional condition restricting further development across the Green Belt through the removal of permitted development rights, to include the unimplemented 16/1152 extensions, very special circumstances would exist to clearly outweigh the harm to the openness of the Green Belt.

8.0 POSITIVE/PROACTIVE WORKING

- 8.1 In assessing this application, officers have worked with the applicant in a positive, creative and proactive manner consistent with the requirements of paragraphs 38-41 of the NPPF. This included 1 or more of the following:-
- a) Provided or made available pre application advice to seek to resolve problems before the application was submitted and to foster the delivery of sustainable development.
 - b) Provided feedback through the validation process including information on the website, to correct identified problems to ensure that the application was correct and could be registered.

9.0 CONCLUSION

- 9.1 The proposal is inappropriate and harmful development in the Green Belt, as the application dwelling has already been substantially extended. However, no other harm exists in terms of character, highways or residential amenities. In the officer's opinion there are very special circumstances to outweigh the harm. This includes the fact that the owner/occupier could still implement permitted development rights, if the use of the premises was not part commercial and erect a similar sized swimming pool as a legitimate fallback. The commercial use itself is low key and is considered to have limited harm to the Green Belt and provides additional benefits by meeting a local community need. Therefore, subject to planning conditions to remove permitted development rights on the site and restrictions on the intensity of the use the application is recommended for approval.

10.0 RECOMMENDATION

GRANT subject to the following conditions:

1. The side infill extension to the swimming pool building hereby permitted shall be begun within three years of the date of this permission.

Reason: To prevent an accumulation of unimplemented planning permissions and in accordance with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved relates to the following approved plans:

Location plan, block plan, floor plans and elevations (all received on 02 July 2018); Proposed extension elevations (received on 06 July 2020), unless the prior written approval has been obtained from the Local Planning Authority.

Reason: For the avoidance of doubt and in the interest of proper planning and as advised in ID.17a of the Planning Practice Guidance.

3. The side infill extension, hereby approved, shall be constructed in external fascia materials to match those of the existing swimming pool building.

Reason: In the interests of the visual amenities of the area and to accord with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012.

4. No additional windows shall be created in the southeast side elevation (facing Tanglewood) of the development hereby permitted without the prior approval in writing of the Local Planning Authority.

Reason: In the interests of the amenities enjoyed by neighbouring residents and to accord with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012.

5. The use of the swimming pool building hereby approved shall be limited to:

Purposes incidental to the private enjoyment of Wyverne Lodge as a dwellinghouse, and;

By external swim schools/instructors for teaching persons to swim, using the existing drive only for parking purposes, to also include the occupiers of Wyverne Lodge and users of the pool for teaching purposes, between the hours listed below only, comprising a maximum number of 9 sessions per day and a maximum number of 5 lesson users in the pool area, per session.

Hours of use:

- 08:00 -18:00 Monday to Friday
- 08:00 - 14:00 Saturdays and Sundays

No use of the swimming pool by external swim schools/instructors for teaching persons to swim shall take place on Public Holidays without the prior agreement in writing of the Local Planning Authority. For the avoidance of doubt 'Public Holidays' include New Year's Day, Good Friday, Easter Monday, May Day, all Bank Holidays, Christmas Day and Boxing Day.

Reason: In the interests of the amenities of adjoining residential occupants and to accord with objectives of the Policy DM9 of the Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.

6. Notwithstanding the provisions of Class A, Class B, Class D and Class E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re enacting that Order), no further extensions (including those granted a lawful development certificate under application 16/1152), roof alterations or outbuildings shall be erected or undertaken without the prior approval in writing of the Local Planning Authority.

Any development under the Classes stated above, or any unimplemented house extensions granted a lawful development certificate under application 16/1152, undertaken or implemented between the date of this decision and the commencement of the side infill extension hereby approved, shall be demolished and all material debris resulting permanently removed from the land within one month of the implementation of the infill extension hereby approved.

Reason: To enable the Local Planning Authority to retain control over the enlargement to the development in the interests of the openness of the Green Belt and visual amenity, to accord with Policy DM9 of the Surrey Heath Core Strategy and Development Management Policies 2012 and the National Planning Policy Framework.