
Appeal Decision

Site visit made on 9 August 2017

by Andrew R Hammond MSc MA CEng MIET MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 August 2017

Appeal Ref: APP/T0355/X/17/3166403

Green Acres, Fifield Road, Fifield, Maidenhead SL6 2NX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Ryan Rieder against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 16/02661, dated 12 August 2016, was refused by notice dated 27 September 2016.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is a proposed single storey outbuilding.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is considered to be lawful.

Reasons

2. The proposed development is a single storey outbuilding within the rear garden of Green Acres. The building is proposed to house a games/snooker room, gym and shower and would have be some 14m x 6m x 2.5m high with a flat roof.
3. Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 grants planning permission for the provision within the curtilage of a dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, subject to limitations and restrictions none of which are transgressed by the proposal.
4. The Council contend that by virtue of its size the entire outbuilding is not reasonably required for a purpose incidental to the enjoyment of the dwellinghouse as such.
5. With regard to the games/snooker room the appellant has provided details of the minimum dimensions needed to accommodate a full size table including minimum clearance for cueing and, as the Council accept, the dimensions justify a space as proposed.

6. Nevertheless, the Council question the size of the gym and the need for a shower room given the proximity of facilities in the main dwelling. A space of some 3.8m x 3m is not excessive for a home gym and it is not unreasonable to have a small dedicated shower room adjacent to the gym facility.
7. Although substantial in overall footprint the proposed development is of a scale appropriate for the purposes stated, namely a games/snooker room, home gym and ancillary shower room, which is a use incidental to the enjoyment of the dwellinghouse as such.
8. For the reasons given above I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development in respect of a proposed single storey outbuilding was not well-founded and that the appeal should succeed. I will exercise the powers transferred to me under section 195(2) of the 1990 Act as amended.

Andrew Hammond

Inspector

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 12 August 2016 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The operations are permitted development by virtue of Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Signed

Andrew Hammond

Inspector

Date: 14 August 2017

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First Schedule

The erection of a single storey outbuilding as shown on drawing number RIE/01 accompanying application Ref 16/02661, dated 12 August 2016.

Second Schedule

Land at Green Acres, Fifield Road, Fifield, Maidenhead SL6 2NX.

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 14 August 2017

by **Andrew R Hammond MSc MA CEng MIET MRTPI**

Land at: Green Acres, Fifield Road, Fifield, Maidenhead SL6 2NX

Reference: APP/T0355/X/17/3166403

Scale: See scale

