
Appeal Decision

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2020

Appeal Ref: APP/R5510/X/20/3244420
118 Hercies Road, Uxbridge, UB10 9ND

- 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 Steven Sparks against the decision of London Borough of Hillingdon Council.
 - The application Ref: 45179/APP/2019/1873, dated 30 May 2019, was refused by notice dated 9 October 2019.
 - 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 "Proposed loft conversion including rear dormer window. Proposed rear outbuilding".
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Decision

1. The appeal is dismissed.

Procedure

2. The Planning Inspectorate initially arranged for this appeal to be determined following a site visit. The file has subsequently been reviewed to consider the optimal procedure for the appeal. It appeared that the appeal could be determined on the papers – that is, without a site visit – without causing prejudice to any party. This is because the case turns on legal points and the parties have submitted sufficient plans, photographs and documentary evidence to understand the nature of the site, the grounds of appeal and the point in dispute. The parties were contacted about this and no objections were raised to the appeal proceeding without a site visit.

Main Issue

3. The Council does not have any concerns that the proposed rear outbuilding would not accord with the conditions and limitations under E.1 of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). The Council only refused the LDC application on the basis that the proposed outbuilding, by reason of its size and scale, was not considered to represent a development required for a purpose incidental to the enjoyment of the dwellinghouse.
4. The GPDO allows for any building required for a purpose incidental to the enjoyment of the dwellinghouse as such. The context for making such a

judgement is whether the activity is one that might, as a matter of fact and degree, be reasonably required of the primary residential use, having regard also to the type and size of the dwellinghouse and the curtilage concerned. That, therefore, is the main issue and I shall focus my attention accordingly. The burden to make out the case, that such a development would be lawful, rests with the appellant.

Reasons

5. I appreciate that a building used privately for a gym, garden room and playing snooker could be considered incidental to the enjoyment of the occupiers of the dwellinghouse. The host property is in residential use and it has a particularly long back garden. I also note that, despite the appeal proceeding without a site visit, the appellant already has a large pool table in the dining room of the house as he is a keen snooker player.
6. However, apart from the proposed floor plan of the building, there are no further details to show that the depiction of a snooker table is a full size one, or that the room would be large enough to accommodate the required circulation and playing space around the table. There is also no explanation of the reasonable need to have a further building given that, as pointed out by the Council, this would be a second large building in the back garden of the house. Furthermore, despite the large size of the back garden, the new building would be very large having a footprint greater than the area of the house. There is no supporting information related to the proposed gym or the garden room.
7. For the reasons given above I cannot conclude that, as a matter of fact and degree, the proposal would be reasonably required for a purpose incidental to the enjoyment of the dwellinghouse as such. Consequently, the Council's refusal to grant a certificate of lawful use or development in respect of a proposed loft conversion including rear dormer window and a rear outbuilding was well-founded. Therefore, the appeal fails and I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Gareth Symons

INSPECTOR