



Appeal Decision

Site visit made on 12 November 2020

by Simon Hand MA

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

Decision date: 24 November 2020

Appeal Ref: APP/C1950/X/20/3256606

102 Harmer Green Lane, Welwyn, Herts, AL6 0ES

- 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 Gideon Brown against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2020/1033/LAWP, dated 7 May 2020, was refused by notice dated 14 July 2020.
 - 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 the construction of single storey outbuilding under permitted development with garage, workshop, gym and bicycle & garden maintenance equipment storage, for the purpose of incidental enjoyment of the dwelling house. Accessed off the existing private drive formed of hogging, (no new access required) with drainage of gutters to soakaway in curtilage. Location of outbuilding indicating siting and dimensions attached.
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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 appellant wants to build a good sized outbuilding next to his house. Such a building would be permitted development under Class E of Part 1 of Schedule 2 of the General Permitted Development (England) Order 2015 except that the Council are concerned that it is not genuinely required for incidental purposes and so falls outside of this class altogether.
3. Class E is for "*buildings etc incidental to the enjoyment of a dwellinghouse*" and it is well attested that to be incidental there has to be a reasonable connection between the activities proposed and the occupation of the dwelling, and that such activities cannot be merely the unrestrained whim of the applicant.
4. In this case the appellant wants to use the building to house 2 cars, gardening equipment, a gym and a DIY workshop. The footprint of the proposed building would be 57sqm. The Council's doubts are fuelled by two facts, firstly the original dwelling only had a footprint of 50sqm so the outbuilding would be bigger than the house, and the appellant has already said he keeps his

gardening equipment in a single detached garage, so there is no need to provide further space for gardening equipment storage.

5. I saw on my site visit that the house is located down a long private drive in the countryside. It has a large, mostly grassed garden around it, and at the bottom of the site, where the access track turns into the site is a small detached garage. There is also a rather dilapidated, small, summerhouse close by, but no other obvious buildings. The garden, and thus curtilage, is substantial, but so is the house. The 'original' dwelling may only have been 50sqm, but now it has been substantially enlarged with a footprint over 3 times that and all across 2 stories, resulting in 320sqm of floor space. The outbuilding will thus be proportional to the dwelling. There is nothing in Class E that suggests any comparison should be made to the 'original' dwelling. This is not a green belt case and permitted development rights are exercisable by anyone as long as they meet the conditions and limitations in the relevant Class.
6. The fact that the appellant's garage is stuffed full of gardening and outdoor equipment (as shown in his photographs) does not make it so unreasonable to provide a larger space for storage that such space would not be incidental. In fact it would seem that more storage is obviously required. In my view therefore there is nothing to suggest any doubt over the incidental use of the outbuilding which is therefore permitted development. There are also no enforcement notices in force that I have been made aware of that relate to the exercise of the relevant permitted development rights. I shall allow the appeal and issue the certificate.

Simon Hand

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 7 May 2020 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in 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 construction of the proposed outbuilding would be permitted development in accordance with Class E of Part 1 of Schedule 2 of the General Permitted Development (England) Order 2015.

Signed

Simon Hand

Inspector

Date 24 November 2020

Reference: APP/C1950/X/20/3256606

First Schedule

the construction of single storey outbuilding under permitted development with garage, workshop, gym and bicycle & garden maintenance equipment storage, for the purpose of incidental enjoyment of the dwelling house. Accessed off the existing private drive formed of hogging, (no new access required) with drainage of gutters to soakaway in curtilage.

Second Schedule

Land at 102 Harmer Green Lane, Welwyn, Herts, AL6 0ES

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 operations described in the First Schedule which had they taken place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, would not have been not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any 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: 24 November 2020

by **Simon Hand MA**

Land at: 102 Harmer Green Lane, Welwyn, Herts, AL6 0ES

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Scale: not to scale

