



Appeal Decision

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2021

Appeal Ref: APP/M3645/X/21/3272626

Stoneacre, Lingfield Common Road, Lingfield RH7 6BZ

- 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 M McSorley against the decision of Tandridge District Council.
 - The application Ref TA/2020/2106, dated 19 November 2020, was refused by notice dated 20 January 2021.
 - 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 erection of an ancillary outbuilding.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appellant suggests that the proposed outbuilding would be lawful by reason of the planning permission granted under Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). This includes the construction of buildings incidental to the enjoyment of a dwellinghouse. I understand that the Council do not dispute that the building would fall within the size criteria of the GPDO and I see no reason to disagree with their conclusions in this regard. Nevertheless, the Council suggest that, due to the size and proposed use of the building, it would not be incidental to the dwellinghouse as required by the GPDO.
3. Therefore, the main issue in this appeal is whether the Council's decision to refuse to grant an LDC was well-founded, taking account of whether the use of the outbuilding would be incidental to the dwellinghouse.

Reasons

4. Where an LDC is sought the burden of proving relevant facts rests with the appellant and the test of the evidence is on the balance of probability. The evidence to support the application should be precise and unambiguous.
5. Stoneacre is a dwelling set within a substantial plot that also contains a garage and covered dining area. It is proposed to construct an outbuilding in the

- position of an existing tennis court. The outbuilding would be of a substantial size comprising a home office, gym, W.C. and garden storage.
6. The office would be a large room, intended to provide space for home working by residents of the house as a result of the coronavirus pandemic and that would be likely to continue to be required in the future. It is unclear why a room of this size is necessary, however. The gym is a smaller room but limited information has been provided on how it would be used, such as what equipment is intended to be provided within it. I note the W.C. is also a considerable size taking account of its proposed function. The evidence, therefore, is not precise and unambiguous and the size of the rooms suggests that the use of the building would be more than could be considered incidental.
 7. My attention has been drawn to a previous planning application reference 2020/570 for an outbuilding. That building would have included a kitchen and shower room. The Council suggest that the kitchen and shower room would have resulted in the building providing principal living accommodation and indicate the building would have been more than could be considered incidental to the enjoyment of the dwellinghouse. This is a different proposal so must be considered on its individual merits. Nevertheless, I understand the building now proposed is of similar size and it would be possible to provide those facilities within it.
 8. The footprint of the proposed outbuilding is substantial in size compared to the dwellinghouse. Taking account of the existing garage and the covered dining area, the proposals would result in outbuildings of a larger footprint than that dwellinghouse. As a result, I consider that visually they would not appear subordinate or incidental to the dwellinghouse.
 9. Taking all the above into account, on the balance of probability I consider the size and use of the outbuilding means that it would not be incidental to the enjoyment of the dwellinghouse.
 10. 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 the proposed outbuilding was well-founded and that the appeal should fail. I will exercise the powers transferred to me under section 195(3) of the 1990 Act as amended.

AJ Steen

INSPECTOR