



Appeal Decision

Decision by A U Ghafoor BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th July 2024

Appeal Ref: APP/M5450/X/24/3337412

7 Appledore Close, Harrow, Edgware HA8 6DE

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Shailesh Bhudia against the decision of the Council of the London Borough of Harrow.
 - Application ref. PL/0439/23 is dated 6 November 2023.
 - 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 development is sought is described as a creation of an 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 development which is found to be lawful.

Main Issue

2. The main issue is whether the development is required for a purpose incidental to the enjoyment of the main dwellinghouse.

Reasons for the Recommendation

3. The appeal site forms a modest semi-detached, two storey dwelling with a sizeable rear garden. Class E, Part 1, Schedule 2 of the GPDO relates to the provision within the curtilage of the dwellinghouse of any building or enclosure required for a purpose incidental to the enjoyment of the dwellinghouse.
4. Both parties agree that the proposal would be compliant with the criteria specified within E.1 of Class E, which includes that any outbuilding should not exceed 50% of the total area of the curtilage of the property, excluding the ground area of the original dwelling. With regards to the footprint of the outbuilding it is clear from the GPDO that the ratio of built form in relation to the extent of curtilage is consequential, and not the dimensions of the proposed outbuilding in themselves. This is reflected within *Emin*¹, in which it was held that the size of an outbuilding is not conclusive in terms of whether it can benefit from the Class E permitted development rights. The pertinent issue is whether the proposal would be reasonably required to accommodate the proposed uses.
5. The proposal would accommodate a home office, gym, and a storage room, all of which are common domestic uses and could all be considered incidental to the enjoyment of the main dwelling. The gym and office would be of a size

¹ *Emin v SSE & Mid Sussex DC* [1989] JPL 909

capable of accommodating the equipment and furnishings required for their proposed domestic function. The storage area would additionally be of a size to accommodate household items such as garden furniture and gardening tools, and its use can be regarded as incidental. Whilst the proposal would include a WC, this occupies a diminutive section of the floor area and in this instance would be used in connection with the much larger gym and home office.

6. Given the modest scale of the main dwelling and large rear garden, the proportions of the proposed rooms are reasonable and proportionate for their intended purpose, without being excessive. Furthermore, the existing ground floor plan of the appeal property illustrates that there would be insufficient space to accommodate the proposed incidental uses at ground floor level, particularly with respect to the gym and storage room which require a larger floor area to accommodate bulky equipment and items.
7. On the evidence before me, I am therefore satisfied that the proposed outbuilding would be reasonably required for purposes incidental to the enjoyment of the dwellinghouse.

Conclusion and Recommendation

8. On the available evidence, the development would meet the conditions prescribed by Class E of Schedule 2, Part 1 of the GPDO. The proposal would therefore benefit from the permitted development rights conferred by Article 3(1) and Class E of Part 1, Schedule 2 of the GPDO. I therefore conclude that the certificate of lawful use or development in respect of the appeal was not well-founded and that the appeal should succeed.

N Unwin

APPEAL PLANNING OFFICER

Inspector's Decision

9. I have considered all the submitted evidence and my representative's report and on that basis the appeal is allowed.

A Ghafoor

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 6 November 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto edged in blue on the plan attached to this certificate, would have been lawful within the meaning of section 192(1)(b) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed development would meet the requirements and conditions of Class E, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO). Planning permission for the development is therefore conferred by Article 3(1) and Class E of Schedule 2, Part 1 of the GPDO.

Signed

A Ghafoor

Inspector

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First Schedule

Creation of an outbuilding as shown on drawings AC-R00-PR-101; AC-R00-PR-102; AC-R00-PR-103; and AC-R00-PR-104.

Second Schedule

Land at 7 Appledore Close, Harrow, Edgware HA8 6DE

IMPORTANT NOTES – SEE OVER

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: 10th July 2024

by A U Ghafoor BSc (Hons) MA MRTPI

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Scale: Not to Scale

