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## Appeal Decision

Site visit made on 20 May 2025

by **Martin Allen BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 June 2025

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**Appeal Ref: APP/Z0116/X/24/3354234**

**8 Channons Hill, Fishponds, Bristol, BS16 2DY**

- 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 Patrick Blake against the decision of Bristol City Council.
  - The application ref 24/02441/CP, dated 24 June 2024, was refused by notice dated 9 August 2024.
  - 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 a garden studio.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the decision of the Council to refuse the application for a certificate was well founded. This turns on whether, at the time of the application, the proposed building would be permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

### Reasons

3. Class E(a) of Part 1 of Schedule 2 of the GPDO allows 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, or the maintenance, improvement or other alteration of such a building or enclosure.” Buildings under this class are permitted subject to certain conditions and limitations.
4. The Council outlines in its Delegated Report that it considers that the proposed development does not accord with Class E of the GPDO in that the use of the building would not be incidental to the enjoyment of the dwellinghouse. It is specifically stated that this is due to the inclusion of a bathroom within the building.
5. However, it is unclear from the report where it was seen that a bathroom was proposed. The Delegated Report lists four plans, the same four plans are recited on the decision notice issued by the Council, yet none of the plans show that a bathroom would be included within the building. The appellant further in their Statement of Case confirms that no bathroom is shown on any of the plans. As such, this does not appear to be a robust reason to refuse the certificate.

6. Nevertheless, despite the description of the proposed development on the application form as a garden studio, the submitted plans show no details whatsoever of what would be provided for within the proposed building; there are no internal floor plans. As a result, given the lack of evidence, it is not clear what the intended use of the building would be, beyond the description of “garden studio.” I am therefore unable to make any determination as to whether the use would indeed be incidental to the enjoyment of the dwellinghouse.
7. The Council also contend that the proposed development would not accord with the limitation as set out in paragraph E.1(b) of Class E, which states development is not permitted if:  
  
*b) the total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)*
8. The Council state that with a floor area of “40.5m<sup>3</sup> the proposed outbuilding would be far greater than 50% of the original dwellinghouse.” There is clear confusion here as the Council refer to a volumetric measurement (referring to m<sup>3</sup>), as well as appearing to refer to the floor area of the original dwelling, which is not the test applied by paragraph E.1(b). The appellant sets out that the floor area of the proposed building is 40.5m<sup>2</sup> and that a previous extension to the house covers 13.6m<sup>2</sup>, totalling 54.1m<sup>2</sup>. It is also stated that the curtilage around the dwelling extends to 175.6m<sup>2</sup>. As such, the area covered by buildings, enclosures and containers would not exceed 50% of the total area of the curtilage. There is no conflict with paragraph E.1(b). The Council raise no issue with any of the other limitations.
9. Notwithstanding the matter in respect of paragraph E.1(b), with which there is no conflict, I find that there is insufficient information to enable me to conclude, on the balance of probabilities, that the use of the building would be for purposes incidental to the enjoyment of the dwellinghouse. Therefore, in light of the above, I cannot conclude that the proposal would comply with Class B, Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

## Conclusion

10. For the reasons given above, I conclude that the Council’s refusal to grant a certificate of lawful use or development for the construction of a garden studio was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

*Martin Allen*

INSPECTOR