



Appeal Decision

Site visit made on 23 May 2025

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th June 2025

Appeal Ref: APP/N5090/X/23/3331661

135 Marsh Lane, Mill Hill, Barnet, London NW7 4LG

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended (the Act) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr M Mulchandani against the decision of the Council of the London Borough of Barnet.
 - The application ref 23/2557/192, dated 12 June 2023, was refused by notice dated 9 August 2023.
 - The application was made under section 192(1)(b) of the Act.
 - The development for which a certificate of lawful use or development is sought is described as “erection of two outbuildings. Conversion of existing pool room into living accommodation.”
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue of this appeal is whether the decision of the Council to refuse an LDC was well-founded.

Reasons

3. An application under section 192(1) of the Act seeks to establish whether any use or operations proposed to be carried out in, on, over, or under land would be lawful. In a LDC application, the onus is on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful.
4. Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits the provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse.
5. The Council confirms that there are no contraventions with the restrictions detailed in E.1 of the GPDO and that the dispute between the parties is whether the proposed outbuildings are required for a purpose incidental to the enjoyment of the dwellinghouse having regard to size and intended use.
6. The submitted plans show the arrangement of the proposed outbuildings. The buildings described as outbuilding 1 would accommodate a swimming pool, jacuzzi, plant room, bowling alley, steam room, sauna, bathroom, changing room, a cinema room and a games room to accommodate a snooker table, air hockey table and a fussball table. The plans for outbuilding 2 would include a gym, bathroom, massage room and a storage room.
7. The appellant describes that him and his wife, along with their son and his wife, live at the appeal site. Medical health conditions of two of the people living at the

appeal site have been described, which includes reduced mobility and the need for a wheelchair. The appellant also describes that their daughter, along with her husband and daughter, spend several months a year at the appeal property. It has been indicated that the appellants son and daughter are each planning on growing their family in the future by having several children. In addition, the appellant explains, with their extended family, they could have 24 family members visiting the property several times a week, although there is no indication as to whether these people visit all at once or on separate occasions, and how long a period their stays are.

8. I have had regard to the *Emin*¹ judgement where it was found that an outbuilding must be 'required for some incidental purpose' to be permitted development under Class E of the GPDO. The size of the building, including in comparison to the host dwelling, may be an important consideration, but size alone is not conclusive. It is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwellinghouse, and whether the building is genuinely and reasonably required to accommodate the use and thus achieve that purpose.
9. It has been described that the footprint of the existing property at the appeal site measures some 603 square metres (sqm) with the proposed outbuildings totalling around 534sqm. Therefore, in footprint area, the proposed outbuildings would be disproportionate in terms of size, as this would equate to approximately 88% increase in the footprint of the existing property. Limited information has been provided on the layout of the existing property and whether any of the facilities proposed in the outbuildings could be accommodated within the existing property.
10. In terms of outbuilding 1, comments from the appellant are noted which state that the bowling alley is standard size, the snooker table having circulation space, and the swimming pool being a small size with the sauna, jacuzzi and steam room being large enough to accommodate a family, along with the cinema room only catering for seven people. This building is however of considerable size and whilst I understand circulation space is required there does seem to be excessive amounts of floorspace, particularly in the games room. Both a changing room and a bathroom which contains a shower are included in the layout, and given the close proximity of outbuilding 1 to the existing property, it is unclear why these rooms are reasonably required.
11. The proposed plans for outbuilding 2 show that the gym would accommodate a treadmill, peleton, elliptical machine, weights rack and bench press. However, in my judgement the size of the equipment as well as a reasonable amount of circulation space would mean that there would be a lot of floorspace that would not be reasonably required for the gym part of this outbuilding. Similarly, with the massage room, whilst there is space for a massage table with circulation for a therapist and some storage space, there still remains excessive floorspace that would not be reasonably required. This outbuilding would also have a bathroom with shower and storage room for towels and cleaning products. These rooms are large, particularly the storage room, and given the close distance to the existing property, it is not clear as to why these rooms are reasonably required.
12. The use of proposed outbuilding 2 as a gym and massage room to allow physical therapy sessions for residents of the appeal property could, in principle, be

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

incidental uses. However, there is no compelling evidence detailing how these facilities cannot be provided for within the existing property, and therefore whether they are reasonably required within an outbuilding. Given the footprint of the outbuildings in relation to the existing property, the type of facilities the outbuildings would accommodate and the lack of clarity or explanation for the size of the outbuildings, there is significant doubt as to whether the proposed outbuildings would be required for a purpose incidental to the enjoyment of the dwellinghouse.

13. From the evidence before me, on the balance of probabilities, I find that the proposed outbuildings would not be required for a purpose incidental to the enjoyment of the dwellinghouse. They would therefore not be permitted development under Class E, Part 1, Schedule 2 of the GPDO.

Other Matters

14. The LDC application sought the erection of two outbuildings and conversion of existing pool room into living accommodation. The Council have not provided any detailed comments in respect to their position with regards to the conversion of the existing pool room in to living accommodation. This matter, however, does not alter my findings above with regards to the proposed erection of two outbuildings and that the Council's decision to refuse a LDC was well-founded.

Conclusion

15. For the reasons given above, I conclude that the Council's refusal to grant a LDC for erection of two outbuildings and conversion of existing pool room into living accommodation is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

Chris Baxter

INSPECTOR