



Appeal Decisions

Site visit made on 1 July 2025

by **Stephen Hawkins MA, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 July 2025

Appeal A Ref: APP/A1910/X/23/3318140

Greymantle, Hempstead Road, Bovington HP3 0HF

- 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 Kedgling Developments Ltd against the decision of Dacorum Borough Council.
 - The application ref 22/00883/LDP, dated 12 March 2022, was refused by notice dated 23 November 2022.
 - 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 two outbuildings.
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Appeal B Ref: APP/A1910/W/23/3327021

Greymantle, Hempstead Road, Bovington HP3 0HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Kedgling Developments Ltd against the decision of Dacorum Borough Council.
 - The application ref is 23/00736/FHA.
 - The development proposed is construction of two outbuildings.
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Decisions

1. Appeals A and B-The appeals are dismissed.

Preliminary Matter

2. The decision in Appeal B takes the revised National Planning Policy Framework, which came into force during the course of the appeal, into account.

Appeal A

Main Issue

3. The main issue in this appeal is whether the Council's refusal to grant an LDC was well-founded. This turns on whether it has been shown that planning permission is granted for the proposal by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) at Article 3, Schedule 2, Part 1, Class E.

Reasons

4. The appeal property contains a substantial detached dwelling. It is proposed to erect two freestanding single storey residential outbuildings towards the end of the rear garden, which is L-shaped and partly wraps around the end of neighbouring residential gardens. The outbuildings would provide a swimming pool, gym and

sauna along with a triple garage. The burden is firmly on the appellant to show that an LDC should be issued for the proposal, the relevant test of the evidence being on the balance of probability.

5. The outbuildings would have roofs with two pitched parts, one short and reasonably steeply sloping, the other shallower and much longer, which meet at an apex. The apexes would be offset from the central part of the outbuildings. On two sides of the outbuildings, parapet walls would protrude above the eaves. At 4 metres, the overall height of the parapet walls would be the same as the apex of the roofs.
6. Article 3, Schedule 2, Part 1, Class E of the GPDO grants planning permission in paragraph E.(a) for the provision within the curtilage of a dwelling of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling as such. It is not disputed that the buildings are so required and there is no sound reason why I should conclude otherwise. Besides, the Council previously issued an LDC for two freestanding structures with a similar footprint and range of uses to the proposal.¹
7. The permission granted by Class E is also subject to none of the relevant size, height and locational limitations set out in paragraphs E.1 to E.3 being exceeded. Paragraph E.1(e) states that development is not permitted by Class E if the height of the building, enclosure or container would exceed (i) 4 metres in the case of a building with a dual pitched roof, (ii) 2.5 metres in the case of a building, enclosure or container within 2 metres of the boundary of the curtilage, or (iii) 3 metres in any other case.
8. Structure-wise, the parapet walls would be vertical extensions of the external walls of the outbuildings. Being the same height as the apexes however, the parapet walls would be viewed in close conjunction with the roof structures. They would be seen from some viewpoints as the topmost part of the outbuildings, this typically being associated with the roof level of a structure. From other viewpoints, the parapet walls would protrude above as well as frame the pitched roofs. Also, in physical terms the parapet walls would partly enclose the roof pitches. The parapet walls would partially screen the unequal pitch of the roofs, for aesthetic reasons. Therefore, from a visual as well as a functional perspective, the parapet walls would have an intimate association with the outbuilding roofs. This does not suggest that the outbuilding roofs could definitively be described as 'dual pitched.' That would be an incomplete description, as it fails to recognise that in addition to the pitched parts there is another significant element intimately associated with the roofs, i.e., the parapet walls. To my mind, a more accurate description of these roof forms would be dual pitched with parapet walls.
9. The 4-metre height limit in Class E, paragraph E.1(e)(i) only refers to dual pitched roofs. The Government's Technical Guidance (TG)², which assists in interpreting the GPDO, advises that the height limit on a dual pitched roof should also be applied to buildings with hipped roofs, but does not refer to other roof forms. If the 4-metre height limit had also been meant to apply to other roof forms, it would surely have stated as such, either in the GPDO or in the TG. That a 3-metre height limit in paragraph E.1(e)(iii) applies to roofs in other cases suggests to me that the GPDO and TG confer a relatively narrow meaning on what constitutes a dual pitched roof. Otherwise, the 4-metre height limit could in theory apply where the

¹ Council Ref: 21/04703/LDP

² Permitted development rights for householders: Technical Guidance MHCLG 2019

height of the external walls is similar to that in other roof forms, for example an outbuilding with a single sloping pitched roof. In my view, this would not reflect the impact-based approach enshrined in Part 1 of the GPDO which underpins the height and other limitations in Class E.

10. In reaching the above findings, I am mindful that the TG distinguishes between roofs and parapet walls. However, that is in the context of measuring eaves height for the purposes of ascertaining whether the limitations including that in Class E at paragraph E.1(f) would be exceeded. No mention is made of that advice also applying to measuring the height of outbuildings in paragraph E.1(e). In my view, it would not be appropriate to import the interpretation of one limitation to an entirely different and separate limitation.
11. Accordingly, based on the available evidence and on the balance of probability, I am not persuaded that the outbuildings would have dual pitched roofs as meant by paragraph E.1(e)(i). As the outbuildings would be located 2 metres from the curtilage boundary, the 3-metre height limit in paragraph E.1(iii) applies. Since that would be exceeded, the outbuildings cannot be granted permission by Class E.
12. The outbuildings would not exceed the other relevant size limitations in paragraph E.1, whilst paragraphs E.2 and E.3 are not relevant in this instance. Nevertheless, this makes little difference to whether permission is granted by Class E.
13. Consequently, the appellant has been unable to show that planning permission is granted for the proposal by the GPDO at Article 3, Schedule 2, Part 1, Class E. It follows that in the absence of an express grant of planning permission, the proposal would not be lawful for planning purposes.

Appeal B

Main Issue

14. The main issue in this appeal is the effect of the proposal on the character and appearance of the surrounding area.

Reasons

Character and appearance

15. The dwelling stands in generously sized grounds and is located within a row of detached and semi-detached two storey dwellings, on the edge of a large settlement. Dwellings in the row vary in terms of their age, architectural style and external materials. Generally, the dwellings occupy comfortably sized rectilinear plots, enjoying spacious gardens containing maturing planting and occasional substantial trees, which back onto land in open, rural use. There are few incidences of large freestanding residential outbuildings in neighbouring gardens. On the opposite side of the street, a lengthy tree-lined verge forms part of a modern planned residential estate. These factors all contribute to the pleasantly spacious and leafy, suburban residential character and appearance of the surrounding area, which eases the sense of transition between the settlement edge and the open, rural land beyond.
16. The siting, footprint and proposed uses of the outbuildings would be similar to the structures in the previous LDC scheme. The principal difference would be that instead of unequal pitched roofs with an apex offset from the centre of the

structure, both outbuildings would have steeply angled, equal pitched roofs with a central apex featuring a half-hip at either end. Up to eaves level, the height of the outbuildings would mostly be similar to that of the LDC structures. On one side of the swimming pool, gym and sauna outbuilding, the eaves would be 1 metre lower. The roof form of the outbuildings would bear a closer resemblance to that of the dwelling and many other residential properties in the vicinity, compared to the LDC structures.

17. At around 5.65 metres above ground level, the overall height of the outbuildings would not approach that of the dwelling or neighbouring dwellings. Nevertheless, the outbuildings would be significantly taller than the 4-metre overall height of the LDC structures. The significant increase in overall height together with the much steeper angled pitch would result in the roofs having a much greater volume compared to the LDC structures. The magnitude of increase in the height and volume of the roofs would lead to the outbuildings having an appreciably greater scale, individually and cumulatively, as well as contributing to a significant portion of the rear garden being adjacent to more substantial built forms, than the LDC structures.
18. The outbuilding roof apexes would be perpendicular to the street, rather than parallel thereto in the case of the LDC structures. However, this would only partially offset the apparent substantial increase in scale compared to those structures. Significant portions of the outbuilding's roofs would protrude well above the rooflines of the LDC structures in views from the street. The profile of the outbuildings might be similar or slightly reduced in those views. Nevertheless, the outbuildings would be more readily apparent on account of their increased overall height, together with the substantial portions of the roofs protruding above the roof lines of the LDC structures. In any event, views of the outbuildings would not be limited to the public realm, as their substantial height and scale would also be experienced from neighbouring residential property. As a result, the outbuildings would be viewed as substantial built features, creating a considerable sense of enclosure by built form at the property. This would be entirely at odds with the prevailing spacious and well-planted qualities of residential development in the vicinity, as well as contributing to a markedly more built-up feel on the edge of the settlement.
19. A line of maturing trees forms the rear property boundary. It is highly likely that there would be encroachment into the root zones during excavations associated with erecting the outbuildings, given the proximity to the trees. Although similar in terms of the footprint and siting to the LDC structures, I cannot discount the possibility of the outbuildings requiring much deeper foundations on account of the increased loads that would be imposed on the walls by the much larger and presumably weightier roofs. In addition, it is entirely possible that there would be pressure to remove some or all of the trees in future, given their proximity to the outbuildings. For example, future growth of the trees may contribute to the actual or perceived threat of structural damage occurring to the outbuildings, above or below ground level. There is no firm evidence to suggest that the problems identified above would not arise. Loss of some or all of the trees would reduce the contribution they make to softening the settlement edge on the open rural land beyond, thus further eroding the visual qualities of the surroundings.
20. It is likely that, in the event the appeal does not succeed, the appellant would erect the LDC structures. On account of their considerably lower profile however, those

structures would not have similar or worse visual consequences compared to the proposal. Accordingly, the fallback position does not weigh in favour of granting permission for the outbuildings.

21. Details were supplied of two examples in the Council's administrative area where residential outbuildings have recently been granted planning permission. Although the roof forms and overall heights might well be similar to the outbuildings in this appeal, those are not the only relevant factors. The substantial residential properties in the examples sit in expansive grounds within predominantly rural surroundings. The permitted structures have an appreciably more modest built footprint as well as scale in the context of that of both outbuildings. Furthermore, the permitted structures do not have a similar visual impact to the outbuildings, having regard to the markedly different settings. Accordingly, the outbuildings do not compare favourably with the examples supplied. In any event, it is a well-established principle in planning that each case falls to be determined on its individual planning merits.
22. Therefore, the proposal would cause unacceptable harm to the character and appearance of the surrounding area. This is in conflict with Policy CS10 of the Dacorum Core Strategy (CS), which requires new development to follow the approach to successful design set out in the CS, including by considering the relationship of the proposed development with its location and physical context, taking into account factors such as the character of the settlement including defined countryside borders and the landscape setting as well as private gardens and green infrastructure along with urban design principles and reinforcing the existing soft edges of settlements.
23. The proposal is also in conflict with criteria in CS Policy CS12, which require development to integrate with the streetscape character and important trees to be retained or replaced with suitable species if their loss is justified, as well as the planting of trees and shrubs to help assimilate development and softly screen settlement edges. Furthermore, there is conflict with Policy 99 of the Dacorum Local Plan, which prioritises the retention of trees and hedges and their protection during development, including by carefully considering the positions of existing and proposed trees with the development so that a harmonious relationship is achieved.

Conclusions

24. Appeal A-For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for two outbuildings is 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).
25. Appeal B-The proposal would harm the character and appearance of the surrounding area in conflict with the Development Plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the Development Plan. Therefore, for the reasons given, the appeal should be dismissed.

Stephen Hawkins

INSPECTOR