



Appeal Decision

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2025

Appeal Ref: APP/T5150/X/24/3346334

113 Chatsworth Road, London NW2 4BH

- 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 A & R Ahmed & Ali against the decision of the Council of the London Borough of Brent.
 - The application ref 23/3322, dated 18 October 2023, was refused by notice dated 13 December 2023.
 - The application was made under section 191(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which an LDC is sought is existing rear outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Determination of the appeal requires an assessment of the proposed development against the provisions of The Town and Country Planning (General Permitted Development)(England) Order 2015 (the GPDO). The proposed development is shown on drawings submitted with the application. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.

Reasons

3. 113 Chatsworth Road is a two-storey semi-detached dwelling with a long rear garden. The outbuilding is at the rear of the rear garden and was built without the benefit of planning permission and was occupied as a separate dwelling. A planning application for retention of the outbuilding was refused and a subsequent appeal was dismissed. Later, an enforcement notice was issued by the Council which required the removal of a kitchen and bathroom and the demolition of the outbuilding. The notice has not been fully complied with; the kitchen has been removed but the bathroom and building remain. Through the application that is the subject of the appeal the Appellant is seeking retention of the outbuilding and for its use as a home office and home gym.
4. Under Class E of Part 1 of Schedule 2 of the GPDO provision within the curtilage of a dwelling of any building required for a purpose incidental to the enjoyment of the dwelling is permitted development, subject to limitations set out in paragraph E.1. The Council accepts that the outbuilding has been built in the curtilage of the dwelling and that it meets the limitations in paragraph E.1. They claim, however, that the outbuilding would not be for purposes incidental to the enjoyment of the dwelling.
5. The judgement in *Emin v SSE [1989] JPL909* confirmed that regard should be had not only to the use to which the building would be put, but also to the nature and scale of that use in the context of whether it was for a purpose incidental to the enjoyment of

the dwellinghouse. The physical size of the building in comparison to the dwelling might be part of that assessment but is not in itself conclusive. The fundamental question is whether the building is genuinely and reasonably required or necessary to accommodate the proposed use and thus to achieve its intended purpose.

6. The Appellant argues “...that facilities such as a home office and home gym are indeed incidental to the enjoyment of the dwellinghouse. In today’s world, where working from home is the norm, it is not unreasonable to argue that these uses are not incidental. Furthermore, a home gym can also be seen as contributing to the well-being and lifestyle of the occupants...”. But, flowing from the judgement in *Emin*, the test is whether the uses are genuinely and reasonably required to justify a conclusion that they would be for purposes incidental to enjoyment of the dwellinghouse.

7. The Government has published Planning Practice Guidance which includes a section on LDCs. In this section at paragraph 5 it is stated that an application needs to describe precisely what is being applied for; without sufficient or precise information, a local planning authority (in this case a Planning Inspector) may be justified in refusing a certificate. The Appellant has not submitted any evidence to indicate that any occupant of the dwellinghouse is a home worker and that their home working requirements cannot be accommodated in the dwellinghouse. It is not enough to claim that “...working from home is the norm...” and it cannot be claimed that provision for home working, in this case, is genuinely and reasonably required.

8. Similarly, gym equipment is shown on the plan that accompanied the application but it is not known what this equipment is or what space is required to accommodate the equipment. It is also not known whether any occupants of the dwellinghouse require a gym facility to maintain their lifestyle. It has been stated that the remedial works carried out “...clearly indicate the building is intended for incidental uses, such as a home office or gym, rather than as a separate living unit”. The intention is clear but it is not clear, given “...such as a home office or gym...”, that it is intended that the outbuilding would indeed be a home office and gym.

9. The Appellant claims that “The Council’s refusal appears to be a tactical move to predetermine and prevent a potential future planning contravention...”. There is no evidence to support this claim. The appeal has been judged on its merits and without regard to what might or might not occur in the future. The Appellant has commented on other outbuildings in the area but the specific details of these other cases are not known. In any event, it is a well established planning principle that a development proposal must be judged on its individual merits.

10. The Appellant’s evidence is imprecise and vague and does not justify a conclusion that the proposed uses of the outbuilding are required or necessary. It must therefore be concluded that the outbuilding would not be for purposes incidental to the enjoyment of the dwellinghouse and it would not therefore be development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

11. For the reasons given above, and on all the evidence now available, the Council’s refusal to grant an LDC for existing rear outbuilding at 113 Chatsworth Road, London was well-founded and the appeal fails. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector