



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 21 November 2025

Appeal Ref: APP/T5150/X/24/3348749

155 Carlton Avenue East, Wembley HA9 8PU

- 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 Suraj Vithlani against the decision of the Council of the London Borough of Brent.
 - The application ref 23/2874, dated 1 September 2023, was refused by notice dated 7 November 2023.
 - The application was made under section 92(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which an LDC is sought is outbuilding containing a swimming pool and cricket practice net.
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Decision

1. The appeal is allowed and attached to this decision is an LDC describing the proposed operation which is found to be lawful.

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. 155 Carlton Avenue East is a mid-terraced dwellinghouse with a very long rear garden. The proposed outbuilding would be at the rear of the rear garden.
4. Under Class E of Part 1 of Schedule 2 of the GPDO provision within the curtilage of a dwellinghouse of any building required for a purpose incidental to the enjoyment of the dwellinghouse is permitted development, subject to limitations set out in paragraph E.1. The Council does not claim that the proposed outbuilding would not be built in the curtilage of the dwellinghouse or that it would not comply with the limitations of paragraph E.1. The Council claims, however, that the outbuilding would not be for purposes incidental to the enjoyment of the dwelling because of its size.
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 the intended purpose.

6. The Council accepts that "...the functional use of the outbuilding in isolation would be considered as incidental to the dwelling house...", but goes on to state that "The proposed size of the outbuilding and the scale of the activities that it would contain are considered unreasonable to provide for a purpose that is purely incidental to the enjoyment of the dwellinghouse". The proposed outbuilding would be 23.6 metres long externally and would be divided functionally into two halves longitudinally. One half would be occupied by a cricket net and bowling machine and the other half by a swimming pool, 15 x 2.5 metres, and plant and changing rooms.

7. The length of a cricket pitch, wicket to wicket, is 20.12 metres, but adequate space must be provided, to fulfil its function and to accommodate a bowling machine, at both ends. The building is no longer than is required to accommodate a cricket practice net. A swimming pool, as accepted by the Council, is a reasonable incidental use and, given the length of the cricket practice net, it is eminently sensible for the swimming pool to also be long and narrow and to be placed alongside the cricket net in a practical rectangular building. Configured in this way the swimming pool would provide both recreational and exercise opportunities for residents of the property.

8. The proposed outbuilding is genuinely and reasonably required to accommodate the proposed uses and thus to achieve the intended purposes. The building would be no larger in scale than it would need to be and the dwelling would retain, given the length of its rear garden, adequate external amenity space. The outbuilding is for purposes incidental to the enjoyment of the dwellinghouse and would therefore be development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

9. For the reasons given above, and on all evidence now available, the Council's refusal to grant an LDC for outbuilding containing a swimming pool and cricket practice net at 155 Carlton Avenue East, Wembley was not well-founded and the appeal succeeds. The powers transferred under section 195(2) of the 1990 Act as amended have been exercised accordingly.

John Braithwaite

Inspector



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 191
(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 1 September 2023 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged and cross-hatched in black on the plan attached to this certificate, were lawful within the meaning of section 191(2) of the Town and Country Planning Act 1990 (as amended), for the following reason:

The operations are development permitted under Class E of Part 1 of Schedule 2 of the GPDO.

Signed

John Braithwaite

Inspector

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Reference: APP/T5150/X/24/3348749

First Schedule

Outbuilding containing a swimming pool and cricket practice net

Second Schedule

Land at 155 Carlton Avenue East, Wembley HA9 8PU

IMPORTANT NOTES

This certificate is issued solely for the purpose of Section 191 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule were lawful, on the certified date and, thus, 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 operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any 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.

Plan

This is the plan referred to in the Lawful Development Certificate dated: 21 November 2025

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Scale: Not to Scale

