



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 24 November 2025

Appeal Ref: APP/N5090/X/24/3349916

85 Woodlands, London NW11 9QT

- 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 Dimensions Planning against the decision of the Council of the London Borough of Barnet.
 - The application ref 24/1451/192, dated 11 April 2024, was refused by notice dated 5 June 2024.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 (as amended).
 - The development for which an LDC is sought is construction of outbuilding in rear garden.
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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. 85 Woodlands is a link-detached two-storey dwelling with a paved front parking area and a rear garden. 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 proposed outbuilding would be built in the curtilage of the dwellinghouse and it would meet the limitations in paragraph E.1.
4. 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.
5. The onus of proof falls on the Appellant and they must provide sufficient precise and unambiguous evidence to justify a conclusion that the outbuilding is genuinely and reasonably required and would be for purposes incidental to the dwelling. The outbuilding would be two rooms; a gym of 23 square metres and a playroom of 32 square metres. Both uses are regarded to be incidental purposes. But the Emin

judgement requires a decision maker to consider not just the use but also the scale of the use in deciding whether the use would be genuinely and reasonably required.

6. The Appellant has submitted many drawings but no documentary or written evidence in support of their appeal. Even basic information such as the number and age of residents of the dwelling is absent. It is therefore not possible to judge whether the scale of the proposed uses of the building are genuinely and reasonably required.

7. The Appellant has not provided sufficient evidence to judge whether the proposed outbuilding is genuinely and reasonably required for the intended purposes and would therefore be for purposes incidental to the enjoyment of the dwellinghouse. The proposed development would not therefore be development permitted under the provisions of Class E of Part 1 of Schedule 2 of the GPDO.

8. For the reasons given above, and on all evidence now available, the Council's refusal to grant an LDC for construction of outbuilding in rear garden at 85 Woodlands, 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