



Appeal Decision

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

an Inspector appointed by the Secretary of State

Decision date: 19 December 2025

Appeal Ref: APP/T5720/X/24/3355276

62 Glenthorne Road, Morden SM4 4JW

- 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 & Mrs Atul & Bharti Kaila against the decision of the Council of the London Borough of Merton.
 - The application ref 24/P2052, dated 24 July 2024, was refused by notice dated 14 October 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 proposed demolition of existing outbuilding and raised platform, and proposed outbuilding garden room/office ancillary to the main house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Determination of the appeal requires an assessment of documentary evidence. In these circumstances visiting the site is unnecessary. The appeal has been determined without undertaking a site visit.
3. The application form describes the use of the proposed outbuilding to be garden room/office whereas an application drawing indicates that the use would be shed, gym/office and shower room. The Council considered the application on the basis of the uses shown on the drawing. The appeal will be determined on the basis that the proposed development is 'outbuilding to provide shed, gym/office and shower room'.

Reasons

4. 62 Glenthorne Road is a two-storey semi-detached dwelling with a long 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 Council accepts that the proposed outbuilding would be built in the curtilage of the dwelling and that it would comply with the limitations. They claim, however, that the outbuilding would not be reasonably required for incidental purposes and would include primary living accommodation.
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 found that “The shed area appears reasonable for its use. Given the substantial size of the garden and the associated maintenance requirements...”. The Appellants have explained that two out of three adults living at the address permanently and regularly work from home. The provision of dedicated workspace for two persons away from the dwelling is a reasonable requirement. The remainder of the large room in the proposed outbuilding would be given over to four pieces of gym equipment; a pilates reformer, a treadmill, a rowing machine and an exercise bike. The provision of space for this purpose, for residents to maintain a healthy lifestyle, is also reasonable.

7. The Appellants accept that “...the provision of a WC with shower could be regarded as a primary living facility”. The Technical Guidance to the GPDO states that “A purpose incidental to a house would not...cover normal residential uses, such as...the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen”. The shower room would be primary living accommodation. The shower would, most likely, be used after use of the gym equipment. The Appellants maintain that the nearest existing shower would be 37 metres from the outbuilding. To walk such a distance would not be disadvantageous and is not a reason that justifies the provision of primary living accommodation in the outbuilding.

8. The principal spaces in the proposed outbuilding are reasonably required to accommodate the proposed uses. The provision of primary living accommodation in the proposed outbuilding is not reasonably required. It must therefore be concluded that the proposed outbuilding, because it would include a shower room, 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.

9. The Appellants have referred to other similar developments in the Council area. The precise details of these developments are not known and, in any event, it is a well established planning principle that a development proposal should be judged on its individual merits.

10. For the reasons given above, and on all the evidence now available, the Council’s refusal to grant an LDC for outbuilding to provide shed, gym/office and shower room at 62 Glenthorpe Road, Morden 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