



Appeal Decision

Site visit made on 18 November 2025

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2026

Appeal Ref: APP/T5150/X/24/3342472

101 Anson Road, Brent, London NW2 4AE

- 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 Bonjomon Ltd against the decision of the Council of the London Borough of Brent.
 - The application ref 24/0131, dated 16 January 2024, was refused by notice dated 11 March 2024.
 - 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 erection of an outbuilding in the rear garden to be used incidental to the main dwelling following the demolition of the existing garage.
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Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is found to be lawful.

Applications for costs

2. An application for costs has been made by Bonjomon Ltd against the Council of the London Borough of Brent. This application is the subject of a separate decision.

Preliminary Matters

3. At the time of my visit, substantial works appeared to be being undertaken to the main dwelling. There is no suggestion that the works would mean that the appeal site would no longer benefit from permitted development rights under Part 1, Class E of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Main Issue

4. The main issue is whether the Council's decision to refuse to grant a LDC is well-founded.

Reasons

5. An application under S192(1)(b) of the Act¹ seeks to establish whether any operations proposed to be carried out in, on, over or under land would be lawful. S192(2) sets out that if on application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect.

¹ Town and Country Planning Act 1990 (as amended)

6. S191(2)(a) and (b) sets out that uses and operations are lawful at any time if: i) No enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and ii) They do not constitute a contravention of any enforcement notice then in force.
7. Planning merits form no part of the assessment of an application for a lawful development certificate (LDC) which must be considered in the light of the facts and the law. In an application for a LDC, the onus is on the applicant to demonstrate on the balance of probabilities that the proposed development would be lawful. An appellant's evidence should not be rejected simply because it is not corroborated. If there is no evidence to contradict their version of events, or make it less than probable, and their evidence is sufficiently precise and unambiguous, it should be accepted.
8. The main thrust of the appellant's case is that the proposed development is granted planning permission by the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)(the GPDO). Schedule 2, Part 1, Class E of the GPDO permits the provision within the curtilage of the dwellinghouse of any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such...'.
9. This appeal will turn on whether the proposed building would be for a purpose incidental to the enjoyment of the dwellinghouse. The test is whether the proposed building is genuinely and reasonably required or necessary in order to accommodate the proposed use or activity and thus achieve that purpose. As explained by the Inspector in respect of appeal decision reference APP/G3110/X/18/3206158, size is a relevant but not conclusive factor in determining whether the proposal would be incidental to the use of the main dwellinghouse.
10. The proposed outbuilding would be located to the rear of the dwelling, and would comprise a toilet with wash basin and a room laid out with gym equipment. The building would measure around 5.6m by 7m, with a height of approximately 2.5m. While the outbuilding would be generous in size, the host dwelling is a substantial two-storey building and so the outbuilding would appear subordinate to it.
11. The Permitted development rights for householders: Technical Guidance (2019) advises that a purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation or the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen. However, while the proposed building would include a toilet, an individual exercising within an outbuilding may reasonably wish to use toilet facilities without having to return to the host dwelling.
12. The proposed plans show that the building would be laid out with two running machines, two exercise bikes and weights. Circulation space appears generous, however, the appellant explains they also require space for mat work and so I would expect this area to be used for weight lifting and for doing exercise which does not require the machines, such as yoga and pilates.
13. The appellant states that the building is intended to enable multiple members of their family to exercise at the same time and so I consider the space which is proposed is not unreasonable in this case. Furthermore, it is not unusual for

occupants of a house to wish to exercise and so the use of the outbuilding for such a purpose can, in my judgement, be considered incidental to the enjoyment of the dwellinghouse.

14. The Council has drawn my attention to an appeal, reference APP/T5150/X/23/3315144 at Coverdale Road, which concerned a proposed outbuilding of similar size. While I note in that case the Inspector found that to be no plausible explanation as to why a large gymnasium or playroom of that size was required, each case will inevitably turn on its own facts. The appellant has explained why they require the space proposed and I consider their explanation in this case to be plausible.
15. While the space provided by the proposed building would be generous, I find that the appellant has shown, on the balance of probabilities, that the proposed building is genuinely and reasonably required or necessary in order to accommodate the proposed use or activity and thus achieve that purpose. It is therefore development which is permitted by the GPDO and the appeal should succeed.

Conclusion

16. For the reasons given above, I conclude, on the evidence now available, that the Council's refusal to grant a certificate of lawful use or development for the erection of an outbuilding in the rear garden to be used incidental to the main dwelling following the demolition of the existing garage is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

M Savage

INSPECTOR

Plan

This is the plan referred to in the Lawful Development Certificate dated: 19 January 2026

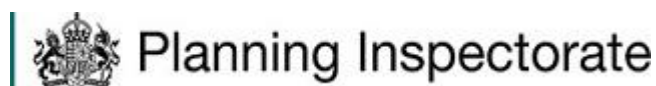
by M Savage

Land at: 101 Anson Road, Brent, London NW2 4AE

Reference: APP/T5150/X/24/3342472

Scale: Not to Scale





Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(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 16 January 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The appellant has shown, on the balance of probabilities, that the proposed outbuilding would be used for purposes which are incidental to the enjoyment of the dwellinghouse and that the building would therefore be permitted by Part 1, Class E of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).

Signed

M Savage

Inspector

Date: 19 January 2026

Reference: APP/T5150/X/24/3342472

First Schedule

The erection of an outbuilding in the rear garden to be used incidental to the main dwelling following the demolition of the existing garage, as shown in drawing numbers: 101AN-A-01-002, 101AN-A-02-101, 101AN-A-02-102, 101AN-A-03-101 and 101AN-A-03-102.

Second Schedule

Land at 101 Anson Road, Brent, London NW2 4AE

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was /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 use /operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use /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.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.