



Appeal Decision

Site visit made on 20 January 2026

by V Bond LLB (Hons) Solicitor (Non-Practising)

an Inspector appointed by the Secretary of State

Decision date: 13 February 2026

Appeal Ref: APP/P0119/X/24/3357753

Willis House, Northmead Lane, Iron Acton, BRISTOL, BS37 9AA

- 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 Jim McAlinden against the decision of South Gloucestershire Council.
 - The application ref P24/02417/CLP, dated 10 October 2024, was refused by notice dated 5 December 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 Proposed out-building to form indoor swimming pool and associated amenities including changing room, showers, plant room and gym.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the LPA's decision to refuse to issue a lawful development certificate (LDC) was well-founded. This will turn upon whether the proposed outbuilding would have been lawful as at the date of the LDC application. Planning merits are not relevant and the onus is on the appellant to make their case on the balance of probability.

Reasons

3. Section 191(2) of the Town and Country Planning Act 1990 states that development is lawful if (a) no enforcement action may be taken in respect of it (because it did not involve development or require planning permission, because the time for enforcement action has expired, or for any other reason); and (b) it does not constitute a contravention of any of the requirements of any enforcement notice then in force.
4. The appellant submits that the proposed outbuilding represents permitted development (PD) under Article 3 and Class E(a) of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015. This grants planning permission for *'the provision within the curtilage of the dwellinghouse of (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such'*.
5. It is agreed between the parties that the proposed outbuilding would meet the limitations in paragraph E.1. The matter in dispute is whether the building would be required for a purpose incidental to the enjoyment of the dwellinghouse.

Site history and proposed outbuilding

6. The appellant sought retrospective planning permission for a home office/garage in the northeastern area of the appeal site which was dismissed on appeal¹ in 2023. A later application made for alterations to the existing outbuilding was refused and an enforcement notice was issued requiring demolition of this building. This notice was not appealed and took effect on 3 October 2024. The LPA has also indicated that another enforcement case was open for use of the existing outbuilding as a holiday let, stating that this is listed online as a holiday let for up to 20 guests.
7. Prior to submission of the application which is the subject of this appeal, another LDC application was made in respect of a proposed outbuilding to accommodate a large home gym, game room, shower rooms and 'open space garden room enclosure' of the same footprint as that proposed in this case. This is the subject of another appeal². The proposed outbuilding in this case would contain a large swimming pool area including lounging space, a plant room, a home gym and a shower/changing room.

Assessment

8. When assessing whether a proposed use is for a purpose incidental to the enjoyment of the dwellinghouse, regard should be had to the nature and scale of the proposed use and whether the building proposed is genuinely and reasonably required to accommodate it. Whether a building is 'reasonably required' cannot rest solely on the unrestrained whim of the householder. Equally, reasonable aspirations should not be frustrated where the proposed use is sensibly related to the enjoyment of the dwelling
9. The proposed outbuilding would have a footprint of some 168 square metres which the LPA indicates is similar to that of the host property. I accept though that size is not determinative of itself and note appeal decisions cited by the appellant³ in which outbuildings were permitted under Class E notwithstanding their significant size relative to the main house.
10. In principle, uses for a home gym, swimming pool and associated plant room and changing/shower rooms are capable of being incidental uses. Likely also these uses could not be accommodated within the main house. However, in order to be PD under Class E, the onus is on the appellant to demonstrate why space for these uses within the proposed building is reasonably required by the occupants of the dwellinghouse.
11. The appellant offers no detailed explanation as to why the occupants of the main house reasonably require a home swimming pool and gym. Indeed, bearing in mind also the differing uses proposed in outbuildings in the previous planning application and LDC application, the proposal in this case for a swimming pool would, in the absence of explanation, appear to be something of a whim.
12. It is contended that the appeal application is very similar to another LDC application approved by the LPA⁴. I do not have full details of this other application but LDC

¹ Ref: APP/P0119/W/22/3296147

² Ref: APP/P0119/X/24/3357750

³ Refs: APP/F5540/X/17/3182248; APP/R5510/X/17/3167037; APP/R5510/X/16/3143778; APP/P0119/X/18/3210248

⁴ Ref: P23/01692/CLP

determinations are made on their own specific facts and I am not bound by previous LDC determinations of the LPA in any event.

13. I find then that the appellant has not shown on the balance of probability that the proposed outbuilding is required for a purpose incidental to the enjoyment of the dwellinghouse and so it would not be PD under Class E. It would not therefore have been lawful as at the date of the LDC application.

Conclusion

14. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for Proposed out-building to form indoor swimming pool and associated amenities including changing room, showers, plant room and gym is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act (as amended).

V Bond

INSPECTOR