



Appeal Decision

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2026

Appeal Ref: APP/U2750/X/25/3362021

Amblers Farm, Whinnythwaite Lane, Tockwith, North Yorkshire YO26 7RJ

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (as amended) (“the Act”) against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Clifford Coggrave against the decision of North Yorkshire Council.
 - The application ref ZC24/03468/CLOPUD, dated 23 October 2024, was refused by notice dated 19 December 2024.
 - The application was made under section 192(1)(b) of the Act.
 - The development for which an LDC is sought is the erection of a domestic outbuilding incidental to the enjoyment of the dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The parties were advised that a site visit was not necessary and would not be carried out.

Main Issue

3. The main issue is whether the Council’s refusal to issue an LDC was well founded. This will turn on whether the building operation of the erection of the outbuilding would have been lawful if it had begun on the date of the application.

Reasons

4. Under section 191(2) of the Act an operation may be found lawful if no enforcement action may be taken in respect of it and it does not contravene any requirement of an enforcement notice then in force. There was no relevant enforcement notice in force when the application was made, so it only needs to be determined whether enforcement action against the erection of the outbuilding was possible at that time.
5. Whether such action would have been expedient is not a matter to be considered in this appeal. Nor, if it transpires that the erection of the outbuilding is development requiring planning permission, is whether it should be granted.
6. Article 3 and Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (“Class E” of “the Order”) grant planning permission for the provision of any building required for a purpose incidental to the enjoyment of a dwellinghouse as such within the curtilage of that dwellinghouse. This is subject to limitations set out in paragraph E.1. of Class E.
7. The Council’s decision did not identify conflict with any limitation within paragraph E.1. Nor did it suggest that the intended activities within the outbuilding, namely a

gymnasium, table tennis, yoga, free weight exercise and a home office, could not be incidental to the enjoyment of the dwellinghouse. Instead, it turned on whether, if those activities were carried out on the scale the outbuilding would facilitate, they would be incidental to the enjoyment of the dwellinghouse as such. The Council considers that the household's reasonable requirements for those activities could be met by a significantly smaller outbuilding.

8. It was held in the leading case on this matter¹ that the activities to be carried out in an outbuilding must be incidental to the property's main use as a dwellinghouse and not for extraneous purposes. The court also held that it follows that the scale of the activities will be important to whether they are incidental, or subordinate.
9. The size of the building in question may, in the context of the planning unit, be indicative of whether it is to be used for incidental or subordinate purposes. The court held, however, that size alone is not conclusive and it is relevant to note that paragraph E.1. of Class E imposes certain limitations on size. In this case, the Council does not dispute that the proposed outbuilding would be subservient in scale to the dwellinghouse.
10. The planning unit is the dwellinghouse and its gardens, shown as a rectangular area on the submitted location plan. The proposed outbuilding would be sited in the back garden, within the curtilage of the dwellinghouse. Its layout is shown on a drawing, which the Council accepts is illustrative. This shows a little under half of the outbuilding laid out as a gymnasium, about a quarter dedicated to table tennis and/or yoga and other exercise, and the remainder accommodating an office area.
11. The appellant and his family members are fitness enthusiasts, and the area identified in the proposed outbuilding would allow them to undertake exercise at home instead of at a local gymnasium.
12. A significant part of the Council's case is that the items of gymnasium equipment shown on the layout drawing are well separated, with 'dead space' between them. However, as noted, the layout is illustrative and the appellant states that he owns 3 further pieces of gymnasium equipment that could also be installed.
13. While the officer report identified 3 appeal decisions involving home gymnasia that turned on similar issues, full details have not been provided and the relevant dimensions in one of those appeals are unstated. It is also unclear whether the gymnasium areas specified in the other 2 decisions were to accommodate equipment like in this appeal or for the use of a household of comparable size.
14. Considering the evidence provided by the appellant, and being mindful that the layout drawing is illustrative, I do not find the area intended for gymnasium activity to be excessive for the household's reasonable requirements. A full range of exercises will call for different items of equipment, and it is reasonable for them to be kept apart, especially when weights are in use. While this area may be larger than the gymnasia considered in appeal decisions cited by the Council, the presented facts of those appeals are insufficient for reliable comparison.
15. The appellant and his family are keen table tennis players. The layout drawing shows a 7.3m x 4.3m area around the table to allow for movement of players

¹ *Emin v SSE & Mid Sussex DC* [1989] JPL 909.

- playing doubles matches. This area would also be available for other fitness activities, specifically yoga or free weight exercise, if the table were folded up.
16. This area does not appear excessive when the need for players to move freely around the table is considered. While the appellant confirms that this part of the outbuilding can also be put to other activities, it would not be realistic to expect bulky gymnasium equipment or desks to be moved in and out of it.
 17. The office area has 3 desks for a family of 5, of whom 3 are in work and 2 are in education. The drawing does not show a printer or any storage areas, which might be expected and which the appellant indicates could reasonably be provided.
 18. While it is described as a home office, it was also stated at the application stage that it would allow the appellant and his wife, who already work from home, to do so more sustainably and professionally. The Council questioned the intended use of the office, and the appellant has responded that it is not for commercial or business purposes. The dwellinghouse currently has an office, and it must be inferred from the appellant's case in this appeal that it would remain in business use, so the proposed home office area would be additional. However, no details of the existing office have been provided, so it is not clear what the total office space within the planning unit would be.
 19. It is also pertinent that the suggested relocation of existing gymnasium equipment to the outbuilding could release space that might be used for office purposes. Shared use of desks and computers within a family group would not be unusual and it is questionable whether all members would need to use an office at the same time, particularly when some are in employment and others are in education.
 20. The office area has therefore not been shown to be commensurate with the reasonable requirements of a household occupying the planning unit, even allowing for the inclusion of a printer and associated storage. Consequently, it is most probable that a significantly smaller outbuilding would meet the household's reasonable requirements. It has therefore not been demonstrated, on the balance of probabilities, that the outbuilding would be used for purposes incidental to the enjoyment of the dwellinghouse as such if the identified activities were carried out on the scale it would facilitate.
 21. The erection of the outbuilding is therefore not permitted by Article 3 and Class E of the Order, so it would not have been lawful if begun on the date on which the application was made. Consequently, it has not been demonstrated that enforcement action could not have been taken against it.

Conclusion

22. For the reasons given above, I conclude that the Council's refusal to grant an LDC for the erection of a domestic outbuilding incidental to the enjoyment of the dwellinghouse is well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the Act.

Mark Harbottle

INSPECTOR