



Appeal Decision

Site visit made on 5 February 2026

by **E Griffin LLB Hons**

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2026

Appeal Ref: APP/J0350/X/25/3359819

32 Stanley Green East, Slough SL3 7RF

- 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 Gurjinder Kaur Athwal against the decision of Slough Borough Council.
 - The application ref P/19971/005, dated 28 October 2024, was refused by notice dated 23 December 2024.
 - The application is made under Section 191(1)(a) of the Town and Country Planning Act 1990 (as amended).
 - The use for which an LDC is sought is for use of an existing outbuilding at the end of the rear garden in connection with gym and store with WC/shower room.'
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The wording on the appellant's application form for an LDC is '*Retrospective application for a permitted development for an outbuilding at the end of the rear garden with WC / shower cubicle for use in connection with Gym and store. Previous consent was without shower / WC. The original application ref P/19971/003 was granted on 14th Dec 2023*'.
3. The Council subsequently altered that description to 'lawful development certificate for proposed outbuilding to be used as store and gym' and refused to grant an LDC on 23rd December 2024. Although the Council's reason for refusal refers to a 'proposed outbuilding,' it is clear from the evidence of both parties that the application relates to the existing outbuilding at the rear of the appeal site not a proposed outbuilding.
4. The parties were invited to comment upon the description wording. The appellant stated that the application could be considered under Section 191 because the outbuilding exists and has consent and the Council has concerns with use which we disagree as described in our appeal documentation'. The Council did not comment upon whether or not the application should be considered under Section 191 or 192. However, no element of the application appears to be proposed.
5. I therefore consider that the application is being made under Section 191 'for use of an existing outbuilding at the end of the rear garden in connection with gym and store with WC/shower room' which reflects the appellant's original wording. No injustice is caused to either party by using that wording when both parties' evidence relates to the existing building and layout and use.

The main issue

6. The main issue is whether the Council's refusal to issue a LDC was well founded.

Reasons

7. Section 191(1) of the Act provides that if any person wishes to ascertain whether (a) any existing use of buildings or other land is lawful; they may make an application for the purpose to the Local Planning Authority. Where that application is refused and an appeal against that decision is made, the onus is on the appellant to make out their case based upon the standard of the balance of probabilities.
8. The Council granted a Lawful Development Certificate¹ for an outbuilding at the rear of the appeal site on 8 February 2023 not December 2023. The plan provided with that application shows a gym/store. The Council states that limited information was provided at the time with regard to the incidental use other than the plan but nevertheless granted the original LDC.
9. The appeal property is a two storey dwelling house which has been extended at the rear with a single storey extension since the grant of the original LDC. The outbuilding which is the subject of the application is at the rear of the appeal site beyond a modest garden space which includes a garden shed.
10. 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") grants 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. The parties agree that the limitations set out in E1 to E3 would be satisfied. The only point of dispute is whether the outbuilding is required for purposes incidental to the enjoyment of the dwelling house.
11. The case of *Emin*² confirms that regard must be had not only to the use to which the Class E building must be put but also to the nature and scale of that use in the context of whether it is a purpose incidental to the enjoyment of the dwellinghouse. The appellant is expected to identify the purpose and incidental quality of the use in relation to the enjoyment of the dwellinghouse. An assessment can then be made as to whether the use of the building is genuinely and reasonably required to accommodate that use and achieve that purpose. The size of an outbuilding is not in itself decisive but can be a relevant consideration. Each case must be assessed individually judged on a fact and degree basis in light of the particular circumstances.
12. The Council's reason for refusal refers to the failure to demonstrate that the size of the outbuilding with a separate shower room, toilet and sink is reasonably required for purposes incidental to the use of the existing dwellinghouse.
13. The existing outbuilding was constructed at the rear following the approval of the original LDC. The Council visited the outbuilding in September 2024 and the layout included an internal dividing wall to separate a shower room with toilet and sink from the rest of the outbuilding.

¹ Ref: P/19971/003

² *Emin v SSE & Sussex DC* [1989] JPL 909

14. The appellant refers to the application as a 'regularisation' on the basis that the current layout with an existing shower room can be substituted for the previously approved plan. The previously approved LDC was for gym/store without a separate shower room with a toilet and sink. No information is provided as to why the submitted plan for this application does not have the same dimensions as the approved LDC plan. No information is provided as to when or why the appellant decided to include an internal dividing wall with a separate shower room or increase the size of the outbuilding following approval. There is limited information about how the outbuilding has been used since it was constructed.
15. The appellant states that the shower room is a small cubicle with a shower tray to freshen up after a workout or to clean muddy shoes or garden tools. However, it is very unlikely that any gardening activity would require a separate shower room with sink and toilet when the rear garden space is modest in size. The shower room extends from the rear wall to the front wall of the outbuilding. There is a garden shed for storage of tools. Shoes and tools could be cleaned outside at a garden tap or in the rear extension.
16. The presence of kitchen cupboards and wardrobes with internal shelves does indicate that storage use is taking place. The Council's statement refers to the main room being used for storage and no cooking appliances or pipework at the visit in September 2024. However, there is no gym area or any information about gym use in terms of occupiers who use the outbuilding as a gym or what gym equipment is available. The extent of the existing storage leaves limited room for any gym use to take place. Storage use can be incidental but does not, by itself, require a separate shower room.
17. The appellant has not explained in any detail how the outbuilding is being used or why that use requires a separate shower room. The outbuilding is now in close proximity to any washing facilities in the main dwelling house due to the addition of a single storey extension and the increase in size of the outbuilding itself.
18. The shower room occupies part of the internal space within the outbuilding but the presence of the shower room does appear to have required a larger outbuilding. Whilst the Council previously granted an LDC, this application is not the same in terms of size or internal layout and related only to gym/store use. The evidence presented by the appellant in making this application for an LDC is lacking in detail in terms of what the existing uses are and why a separate shower room is necessary to support those uses.
19. On the limited evidence before me, the appellant has not shown, on a balance of probabilities, that the use of the existing outbuilding for gym/store use with a separate shower room is reasonably required for purposes incidental to the use of the main dwelling house.

Other matters

20. Although not part of its reason for refusal, the Council now maintains that the outbuilding was constructed from the outset to provide primary residential accommodation and cannot therefore benefit from permitted development rights. It relies upon an enforcement appeal decision and case law to support that view.
21. In the decision referred to, the appellant acknowledged that the building had been built and had been used as primary residential accommodation from the outset.

However, the appellant strongly disputes that the outbuilding has been constructed and used as primary residential accommodation. Every appeal has to be determined upon its own facts and circumstances and the facts of this appeal are not the same. The Council refused to grant the LDC based upon its interpretation of Class E and I have determined the appeal on that basis.

22. The appellant has referred to seeking guidance through the appeal process as to how the outbuilding can be used. However, this is a matter for discussion between the appellant and the Council.

Conclusion

23. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful development and use for an existing outbuilding at the end of the rear garden with WC/shower room for use in connection with gym and store' 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).

E Griffin

INSPECTOR