



Appeal Decision

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2026

Appeal Ref: APP/F5540/X/25/3365182

28 Winslow Way, Feltham, Hounslow TW13 6QD

- 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 Vernon Edward against the decision of the Council of the London Borough of Hounslow.
 - The application ref P/2025/0736, dated 9 March 2025, was refused by notice dated 2 May 2025.
 - 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 at rear garden.*'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal can be determined without the need for a site visit, as I have been able to reach a decision based on the information already available.

Main Issue

3. The main issue in the appeal is whether the Council's refusal to grant an LDC was well-founded. This turns on whether the appellant has shown that planning permission is granted for the proposal by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) at Article 3(1), Schedule 2, Part 1, Class E.

Reasons

4. The appeal property contains a semi-detached dwelling. The proposal entails erecting a freestanding single storey outbuilding towards the far end of the rear garden. The burden is firmly on the appellant to show that an LDC should be granted in respect of the proposal, the relevant test of the evidence being on the balance of probability.
5. Erecting the outbuilding would involve carrying out building operations falling within the definition of development set out in s55(1) of the Act. Planning permission is required for the carrying out of any development of land, having regard to the Act at s57(1). At s191(2)(a), the Act states that operations are lawful where no enforcement action may be taken in respect of them. This includes where those operations benefit from a grant of planning permission.
6. The GPDO, at Article 3(1), Schedule 2, Part 1, Class E, paragraph E.(a), grants planning permission for the provision within the curtilage of a dwelling of any building or enclosure, swimming or other pool required for a purpose incidental to

the enjoyment of the dwelling as such. In the context of a dwelling, an incidental purpose is generally regarded as being a subordinate activity connected with the running of the dwelling or with the domestic or leisure activities of the persons living in it. The Government's Technical Guidance (TG), which assists in interpreting the GPDO, advises that a large range of buildings can fall within Class E, including garden sheds, other storage buildings and garages, as long as they can properly be described as having a purpose incidental to the enjoyment of the dwelling.¹

7. Established case law² confirms that 'required' for a purpose incidental to the enjoyment of the dwelling as such is to be interpreted as 'reasonably required' and should not rest on the 'unrestrained whim' of a householder. The physical size of a building in comparison to the dwelling can be an important consideration, but by itself is not conclusive. Regard should be had to the use to which it is proposed to put the building and to the nature and scale of that use. It is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwelling and answer the question as to whether the building would be genuinely and reasonably required or necessary in order to accommodate the proposed use or activity and thus achieve that purpose.
8. One of the two main rooms in the outbuilding is described as a 'home gym'. Use for that purpose could reasonably be considered as being subordinate to and connected with the running of a dwelling and as such, be incidental to its enjoyment. Such use would fall within the wide range of day-to-day domestic leisure and recreational activities that occupiers of a dwelling might participate in. It is not unreasonable for occupiers of a dwelling to wish to engage in home-based exercise as part of a healthy lifestyle.
9. Nevertheless, other than the description as a home gym the appellant did not indicate how this room would be used. With a gross internal floor area (GIA) of around 18m², the room would be of significant size. On its own, the description as a home gym is not sufficient to show that a room of the size proposed would be reasonably required for that purpose. There is no information concerning the activities that would be undertaken as part of the intended use as a home gym, which might assist in assessing whether there is a reasonable requirement for a room of this size. Accordingly, the appellant has not shown that a room of the size proposed is reasonably required to accommodate an incidental home gym.
10. The other main room in the outbuilding is described as a 'snug'. With a GIA of around 27m², this room would be greater in size than the home gym, accounting for more than half of the total floor space within the outbuilding. No explanation was provided concerning the use of this room, either. Moreover, in a residential context use as a snug room is generally associated with activities such as reading, listening to music, watching television, or other types of informal relaxation. That being the case, such use is more closely related to activities that normally take place in a living room or other space forming part and parcel of the primary living accommodation within a dwelling. The TG advises that a purpose incidental to a dwelling would not 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. Consequently, as a matter of fact and degree,

¹ Permitted development rights for householders: Technical Guidance MHCLG 2019

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

based on the information before me, the use as a snug would not in my view be an incidental use falling within Class E.

11. There would also be a third, smaller room with a GIA of around 5m² in the outbuilding, initially described as a WC/shower room and accessible via the home gym. Whether a modest WC/shower facility could reasonably be regarded as part of an incidental use as a home gym would again be a matter of fact and degree; such a facility would not necessarily fall outside of Class E. Nothing in the TG suggests that an incidental use such as a home gym cannot include a WC or shower. However, following revision of the application prior to determination it is unclear whether this room is reasonably required for an incidental purpose, as the intended use is no longer identified.
12. The outbuilding would have a total GIA of around 50m². I am given to understand that the dwelling had a footprint of approximately 43m² at or around the time of the application. Accordingly, the outbuilding would be of a substantial size relative to the dwelling. The built footprint would be greater than that of the dwelling, whilst the outbuilding floorspace would represent an increase of over half that of the dwelling. Although not in itself determinative, this is an additional factor which does not support an outbuilding of the size proposed being reasonably required for incidental purposes at the property.
13. The planning permission granted by Class E is also subject to meeting the limitations, including in relation to the size of the structure relative to the total area of the curtilage, together with those on the height and location of such a structure, set out in paragraphs E.1 to E.3. It is not in dispute that the outbuilding would be located within the curtilage of the dwelling, that the relevant size and locational limitations in paragraph E.1 would be met and that paragraphs E.2 and E.3 do not apply in this instance. Having undertaken my own assessment, I concur. Even so, the outbuilding cannot be permitted by the GPDO unless all the requirements of Class E have been met.
14. Due to the above factors and in the particular circumstances of this case, based on the available evidence and on the balance of probability, the appellant has failed to show that the outbuilding would be required for purposes incidental to the enjoyment of the dwelling as such, so as to be granted planning permission by Article 3(1), Schedule 2, Part 1, Class E of the GPDO. It follows that, in the absence of an express grant of planning permission, the proposal is not lawful.

Conclusion

15. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for erection of an outbuilding in the rear garden 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).

Stephen Hawkins

INSPECTOR