



Appeal Decision

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2026

Appeal Ref: APP/F5540/X/25/3365427

11 Worton Gardens, Isleworth TW7 4BD

- 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 Nalla against the decision of the Council of the London Borough of Hounslow.
 - The application ref P/2025/0283, dated 28 January 2025, was refused by notice dated 24 February 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 the erection of a detached outbuilding in the rear garden following the demolition of the shed.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the LDC application form differs to that on the decision notice and appeal form. There is no evidence that this change was formally agreed. However, the latter more accurately describes the development for which the LDC is sought. As no parties' interests would be prejudiced, in the interests of clarity I rely upon the latter description for the purposes of the banner heading above and my Decision.
3. For the purposes of obtaining a LDC the burden of proof lies with the appellant, and the standard of proof is the balance of probabilities. The relevant date for ascertaining whether the proposed development would be lawful is the date of the application. Consequently, the planning merits of the case are not relevant.
4. Section 192 (2) of the Town and Country Planning Act 1990 (the Act) indicates that if, on an application under that 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; and in any other case they shall refuse the application.

Main Issue

5. The main issue is whether the LPA's decision to refuse the application for an LDC was well-founded, with particular regard to whether the proposal would be required for a purpose incidental to the enjoyment of the dwelling house.

Reasons

6. Whether the proposal is required for a purpose incidental to the enjoyment of the dwellinghouse poses two questions: (1) is the purpose of the proposed outbuilding

incidental to the enjoyment of the dwellinghouse; and, if so, (2) is the proposed outbuilding reasonably required for that purpose?

7. In addressing the first question, case law establishes that “incidental” is to be judged by reference to objective reasonableness, and not solely by the preferences or intentions of the occupier.
8. Further guidance is provided in the Permitted Development Rights for Householders: Technical Guidance (2019), which explains that purposes incidental to a dwellinghouse do not include primary living accommodation, such as bathrooms.
9. Applying this guidance, I am satisfied that the use of the outbuilding as a home office, private gym and sauna would fall within purposes incidental to the enjoyment of the dwellinghouse. However, I do not consider that the inclusion of a bathroom meets this test. Whilst the appellant accepts that features such as a WC and shower may, in some contexts, be regarded as primary residential facilities, it is argued that their inclusion in the proposal serves a secondary purpose linked to the intended use of the building.
10. Whilst there would be a functional link between the bathroom and the intended use, this does not render it incidental. The provision of a toilet, shower and basin constitutes a facility typically associated with primary living accommodation and therefore goes beyond what can reasonably be regarded as incidental.
11. Moreover, the submitted drawing illustrates that the main dwelling already provides shower and toilet facilities, located on the ground floor towards the rear of the dwelling which could readily serve the proposed use of the building. As such, a separate bathroom within the outbuilding is not reasonably required and reinforces the conclusion that the proposal exceeds what is incidental.
12. Turning to the second question, whether the outbuilding is reasonably required, this must be considered with particular regard to its overall size and scale.
13. Whilst it is not disputed that the proposal complies with the limitations of Class E, including site coverage, compliance with these criteria does not in itself demonstrate that the building is reasonably required for a purpose incidental to the enjoyment of the dwelling house. That test is set out in Class E itself, with which the proposed development must accord for it to be permitted by that class.
14. In this case, the overall scale of the proposed outbuilding is a significant factor. With a footprint of approximately 52.8m², it would represent a substantial structure within the context of the site, approaching the scale of the extended main dwelling (approximately 71.5m²) and exceeding that of the original house. Although the proposal involves the demolition of an existing outbuilding, this does not diminish the scale of what is proposed. The resultant building would be substantial both in its own right and relative to the scale of the dwelling and its plot, giving it a notable visual and physical presence within a modestly sized garden.
15. The internal layout further reinforces this impression. The proposed home office (16m²) and gym (20m²), whilst individually framed as incidental uses, collectively contribute to the overall scale of the building. Whilst the layout is described as accommodating a range of gym equipment, circulation space, and office functions, these appear to reflect assumed or aspirational requirements rather than clearly

defined or evidenced need. No specific justification has been provided to demonstrate why such a scale of provision is necessary, particularly for sole use by the property owner. Typical requirements for a home gym and workspace could reasonably be met within more limited floorspace.

16. While some gym equipment requires space, many forms of domestic exercise equipment can be accommodated within smaller areas. Similarly, a home office would not typically require a room of the scale proposed for normal day-to-day use. These practical considerations reinforce the view that the internal spaces are larger than functionally necessary, supporting the conclusion that the building as a whole exceeds what is reasonably required for incidental purposes.
17. Accordingly, it is the cumulative scale of the building, derived from both its overall footprint and the size of its internal spaces, that undermines its incidental nature. Taken together with the inclusion of a bathroom the proposal presents as a substantial structure, rather than one that is clearly subordinate and incidental to the main dwelling.
18. In summary, whilst the intended uses (excluding the bathroom) are capable of being incidental, I am not persuaded that the scale of the outbuilding is reasonably required to support those uses. On the balance of probability, I conclude that the proposed development would not have been lawful at the date of the application.

Conclusion

19. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development for the erection of a detached outbuilding in the rear garden following the demolition of the shed 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). The appeal is dismissed.

V Goldberg

INSPECTOR