



Appeal Decisions

Site visit made on 5 October 2026

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2026

104 Whitchurch Lane, Edgware, London HA8 6QN

- The appeals are made under section 195 of the Town and Country Planning Act 1990, as amended (the Act) against refusals to grant a certificate of lawful use or development.
 - The applications were made under section 192(1)(b) of the Act.
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Appeal A Ref: APP/M5450/X/25/3365336

- The appeal is made by Mr Roger Castle against the decision of the Council of the London Borough of Harrow.
 - The application ref PL/1939/24, dated 15 July 2024, was refused by notice dated 9 September 2024.
 - The development for which a certificate of lawful use or development is sought is 'construction of outbuilding to rear garden.'
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Appeal B Ref: APP/M5450/X/25/3365489

- The appeal is made by Mr Catalin Buruiana against the decision of the Council of the London Borough of Harrow.
 - The application ref PL/2851/24, dated 21 October 2024, was refused by notice dated 5 December 2024.
 - The development for which a certificate of lawful use or development is sought is 'construction of outbuilding to the rear garden and demolition of existing garden sheds.'
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Decisions

1. Appeal A is dismissed.
2. Appeal B is allowed. Attached to this decision is a lawful development certificate describing the proposed operation which is found to be lawful.

Preliminary Matters

3. There are two appeals, each for a similar proposed outbuilding in the same part of the back garden of the house at No.104 Whitchurch Lane. Both applications were refused by the Council for the same reason.
4. Appeal A was made by Mr Castle and Appeal B was made by Mr Buruiana, who lives in the house with his family. Mr Castle is Mr Buruiana's architect and agent in both appeals and Mr Buruiana is, for all intents and purposes, the mutual appellant. I have, therefore, considered the appeals together and use 'appellant' for ease.
5. The descriptions of the proposed development in the banner headings above are the appellant's, from each application form. In Appeal A, the Council's decision notice used 'detached outbuilding at rear for use as gym/games room' and in Appeal B 'erection of outbuilding to rear garden area'.

Main Issue

6. The main issue in each appeal is whether the Council's decision to refuse the application for a lawful development certificate was well founded.

Reasons

7. The applications were made to ascertain whether the development applied for would have been lawful if carried out on the date each application was made. For either appeal to succeed, the onus is firmly on the appellant to demonstrate, on the balance of probability, that the outbuilding was permitted development, granted planning permission by Article 3(1) and Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO). Planning merits are not relevant to this assessment.
8. As well as the other relevant limitations and conditions of Class E (not in dispute in either appeal), in E.(a) buildings provided within the curtilage of a dwellinghouse as permitted development must be built as 'required for a purpose incidental to the enjoyment of the dwellinghouse as such'. Other than E.4, which includes for the domestic needs or personal enjoyment of the occupants of a dwellinghouse, this phrase is not defined in the GPDO.
9. The nub of the Council's reason for refusal in both appeals is the same; in essence, the scale of the outbuilding and if it is necessary for the nature of proposed uses, so would be required for a purpose incidental to the enjoyment of a dwellinghouse as such.

Appeal A

10. This outbuilding would be internally apportioned as a home gym, with fitness equipment, and a games area, including a 'tea station' with sink and a separate shower room with toilet. It would be about 14m long and 6.7m wide with 94sqm floorspace.
11. The appellant is a keen amateur boxer (Muay Thai fighting) and keeping fit is relevant to his work in security. He also pursues a pastime in cue sports (such as billiards) given the application plans appear to show a full-sized (thus also heavy) table. I accept that these interests (especially not both together) are unlikely to be shared by most people. But there is no apparent reason why these leisure activities are not enjoyed by the likely many people that do pursue such hobbies. Moreover, many people pursue these activities at home, whether to keep fit generally and for family games or children's play, in a dedicated space incidental to the primary occupation of a family sized house, such as in this case with four bedrooms.
12. At my site visit I saw some typical, quite large and bulky or heavy gym equipment. It is stored in a small, old garden shed or part of an open plan living area in the house when not being used outdoors on a patio. Though wide, this extended part of the house is shallow and one end is part of the kitchen. It also includes a small table used as a home office work space and links through to the dining and living areas which contain requisite furniture. It is not conducive in size or layout as a gym with this equipment, or for cue sports with a table. Nor is the dining/living area or the first floor bedrooms in these same regards.
13. Part of the open plan living area could be used for family games or children's play, once cleared of a stored treadmill and road racing bicycle; alternatively, the converted, extended loft which is currently a bedroom, though due to ceiling height or roof slope, a significant part of this room is not suitable for the gym or cue sports (and not both), even if there was adequate floor loading. The house has a family

shower room with toilet and the loft bedroom includes an en-suite shower room with toilet and what appeared to be a small kitchenette or the like.

14. I accept that the unrestricted margin around the table shown in the application plans is required for cue sports. Also, that equipment of the sort shown is suitable for the gym and the shower room with toilet and a tea station would each be modest in extent. However, it is not clear how much space the games area would take, with some seating and a small table. Furthermore, the appellant seeks to rely on details and plans submitted as part of the Appeal B application to explain the space required for the Appeal A gym. But the quantity and type of equipment shown in the Appeal A plans is not entirely the same as in the Appeal B gym or in layout, so is not directly comparable. Nor do the Appeal A plans show the dotted line minimum safe equipment and exercise separation distances in the Appeal B plans¹ and some evidently empty floorspace is without apparent purpose.

Appeal B

15. This outbuilding would essentially be the same design as in Appeal A, including 6.7m wide but notably shorter (9.9m) with significantly less floorspace (66sqm). It would be internally apportioned as a home gym, with fitness equipment, and a home office, including a tea station with sink and separate shower room with toilet, and a separate store.
16. The gym includes some equipment (such as a multifunctional cable machine and a hanging punch bag) not in the Appeal A plans or that I saw. But the details before me, including submitted with the application and in the application plans, justify the space assigned to the equipment shown, including objective, published separation distances for safe, unrestricted use.
17. The appellant and his wife partly work from home. The table in the open plan living area provides a limited working area, essentially for one person with laptop, so it is not conducive for concurrent use by both of them. It is anyway likely to be a busy, noisy environment; though the converted loft or another bedroom would not be. Irrespective of their occupations, the application plans show a wide but shallow, modest sized desk for two small workspaces side by side, each with a chair and laptop/screen.
18. I also saw three motorbikes in the back garden, two in a small, dilapidated store. I have no reason to doubt that the appellant is a motorbike enthusiast for commuting and recreational purposes, as are many people. The application plans show the store would be sufficiently large enough to keep two motorcycles and two bicycles (such as the one in the open plan living area) as well as a lawnmower and a wheelbarrow. The rest of the outbuilding would be taken up by the modest tea station and separate shower room with toilet. There would evidently be little, if any, unassigned floorspace.

Other Considerations

19. I have had regard to the 19 lawful development certificate appeal decisions for proposed domestic outbuildings put to me by the appellant (some involving this same Council) and to one mentioned by the Council. The appellant also referred me to 'consented' outbuildings in the Council's area, including one in Whitchurch

¹ As explained in the Appeal B application Planning Statement, 19 October 2024

Lane, but it is not clear if these decisions were lawful development certificates or planning permissions. There is, anyway, little evidence that the details of those cases are directly comparable to the current appeals, though I acknowledge some similarities and the general thrust of each Inspector's reasoning.

Conclusions

20. In also considering relevant caselaw, including that put to me by the Council², whether an outbuilding is required is essentially for the occupants of a dwellinghouse to determine. In this regard, a family games or children's play space could be accommodated in the open plan living area on the ground floor of the house; or in the loft room or another bedroom as could be a home office. But that is not how the appellant wants to use his house for his family. There is then little evidence that a home gym, a home office or a garden store could practicably be established in the house or without unreasonably interfering with or displacing primary living accommodation.
21. Both outbuildings would be at the bottom end of the long garden, so a tea station and shower room with toilet would be convenient ancillary facilities, especially during hours of darkness or inclement weather. This would not in itself be indicative of primary dwellinghouse living accommodation or residential use of either outbuilding, which is excluded from Class E (as also confirmed in relevant Government guidance³).
22. Consequently, I have no reason to doubt that the appellant's domestic needs and intentions for personal enjoyment of the house and a new outbuilding by him and his family reflect genuine circumstances relevant to both appeals, in line with E.4 in the GPDO. Moreover, a particular type (or scale) of room in a Class E outbuilding is not excluded by the GPDO per se, including potentially for novel uses.
23. While different in character to residential use, a home gym is a common leisure activity of those who live in a dwellinghouse and whether convenient or necessary, working from home is an established facet of modern living and many people's work-life balance. A family games or children's play space is part and parcel of family living and a domestic garden store is typically connected with the running of a house. I am therefore satisfied that the nature of these uses would have a normal functional relationship between the ordinarily incidental use of either outbuilding and residential use of the house.
24. However, albeit not necessarily determinative in all cases, the resulting intrinsic size of an outbuilding or in relation to the size of a house are relevant visual or physical factors. These are important considerations in both appeals.

Appeal A

25. This single-storey outbuilding would be visually distant and physically subservient to the house in design and siting and in relation to the overall floorspace of the house if including upper floors and as it has been extended. But as a matter of fact and degree, the extent of the gym and the function of some other floorspace has not been justified, nor therefore has the scale of this outbuilding or if it is reasonably necessary for the uses proposed. The unwarranted, disproportionately large footprint and resulting excessive form by this means (compared to the equivalent

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

³ Permitted development rights for householders - Technical Guidance, September 2019

original or extended footprint and ground floor part of the house) appears to be little other than the unrestrained whim or personal choice of the appellant.

26. As a result, this outbuilding would not be required for a purpose incidental to the enjoyment of a dwellinghouse as such. Paragraph E.(a) was not met and it was not permitted development granted planning permission by Article 3(1) and Schedule 2, Part 1, Class E of the GPDO. The appellant has therefore not shown, on the balance of probability, that this outbuilding was lawful on the date the application was made.
27. For these reasons, and on the evidence now available, I am satisfied that the Council's decision to refuse to grant a lawful development certificate was well-founded. Accordingly, this appeal does not succeed and I will exercise the powers transferred to me in section 195(3) of the Act.

Appeal B

28. As a matter of fact and degree, this single-storey outbuilding would be similar in design and siting to the outbuilding in Appeal A. The footprint and scale has been justified as reasonable and in visual and physical terms it would be significantly more subservient in overall form to the house.
29. As a result, this outbuilding would be required for a purpose incidental to the enjoyment of a dwellinghouse as such. Paragraph E.(a) was met and it was permitted development granted planning permission by Article 3(1) and Schedule 2, Part 1, Class E of the GPDO. The appellant has therefore shown, on the balance of probability, that this outbuilding was lawful on the date the application was made.
30. For these reasons, and on the evidence now available, I am satisfied that the Council's decision to refuse to grant a lawful development certificate was not well-founded. Accordingly, this appeal succeeds and I will exercise the powers transferred to me in section 195(2) of the Act.

Robin Buchanan

INSPECTOR



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 21 October 2024 the operation described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason:

The proposed outbuilding was permitted development, granted planning permission pursuant to Article 3(1) and Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Signed

Robin Buchanan

Inspector

Date: 09 October 2026

Reference: APP/M5450/X/25/3365489

First Schedule

Construction of outbuilding to the rear garden and demolition of existing garden sheds, as shown in plan number 104WL P_200 Rev 02.

Second Schedule

104 Whitchurch Lane, Edgware, London HA8 6QN

CERTIFICATE OF LAWFULNESS FOR PLANNING PURPOSES

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use /operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, was/were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use/operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 09 October 2026

by Robin Buchanan BA (Hons) MRTPI

Land at: 104 Whitchurch Lane, Edgware, London HA8 6QN

Reference: APP/M5450/X/25/3365489

Scale: Not to Scale

