Planning Inspectorate

Appeal Decision

Site visit made on 13 October 2026

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 16 November 2026

Appeal Ref: APP/F5540/X/25/3372568
395 Twickenham Road, Isleworth, Hounslow TW7 7ES

- 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 Narain Singh against the decision of the Council of the London Borough of Hounslow.
- The application ref P/2025/1407, dated 2 May 2025, was refused by notice dated 1 July 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 described as 'Erection of a single storey outbuilding (containing a swimming pool and associated functions) for incidental use to an existing dwellinghouse (Schedule 2, Part 1, Class E of the General Permitted Development Order (as amended 2025)).'

Decision

1. The appeal is dismissed.

Main Issue

2. In order for an LDC to be granted under s192, the burden of proof is on the appellant to show, on the balance of probabilities, that the development would be lawful at the date of the application. For the avoidance of doubt, this means that the planning merits of the development, including the risk of flooding and public transport accessibility, are not relevant to this appeal.

3. As such, the main issue is whether the Council's refusal to grant an LDC was well-founded. This turns on whether the proposal would be development permitted by Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

4. Class E of the GPDO permits the provision, within the curtilage of a dwellinghouse, of any building required for a purpose incidental to the enjoyment of the dwellinghouse as such, subject to various limitations. There is no suggestion from either main party that the development would fall foul of the limitations in paragraphs E.1., E.2., E.3. and E.4. of Class E, and I have no reason to question this.

5. The area of dispute between the parties is limited to the question of whether the proposed development would be reasonably required for a purpose incidental to the enjoyment of the dwellinghouse.

6. There is no definition of what constitutes development that is 'incidental', but case law has established some guiding principles. In the case of *Emin v SSE & Mid Sussex DC [1989] JPL 909*, the court confirmed that regard should be had not only to the proposed uses but also to the nature and scale of that use in the context of whether the purpose is incidental to the enjoyment of the dwellinghouse. The size of the building, including in comparison to the host dwelling, may be an important consideration, but size alone is not conclusive. It is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwellinghouse, and whether the building is genuinely and reasonably required to accommodate the use and thus achieve that purpose. The determination of each case is therefore a matter of fact and degree based on its own particular circumstances.

7. The Council's concerns relate in part to the inclusion of primary living accommodation. It is common ground that a drawing within the appellant's permitted development statement, which accompanied the original application, shows one of the rooms within the proposed building to be a 'WC and changing room'.

8. As part of the appeal, revised plans have been submitted, showing the same room as a plant room containing electrical controls, a water pump and filtration equipment. I am mindful that a s192 application falls to be assessed by reference to whether the proposed development would have been lawful at the date of the application. Whilst I have had regard to the revised plans, the plans before the Council at the date of the application remain relevant evidence of the proposal for which a certificate was sought.

9. However, the presence of a WC or changing facility does not necessarily constitute primary living accommodation and the outcome of this appeal does not turn solely on the label attached to that room. Moreover, the subsequent relabelling of the room as a plant room does not materially alter my assessment of whether the proposed building would be incidental to the enjoyment of the dwellinghouse. The relevant question is whether the proposed building would be required for a purpose incidental to the enjoyment of the dwellinghouse. I have therefore considered the size, layout, facilities and intended function of the proposed building as a whole.

10. The appellant argues that the proposed building would operate as a home spa/ pool house for the benefit of the occupants of the dwelling. It has also been put to me that these occupants would continue to rely on the main house for washing, toilet and bathroom facilities. I have no substantive reason to question this.

11. I acknowledge that a swimming pool, gymnasium, sauna and rooms for garden storage and the storage of clothing are uses that are capable of being incidental to the enjoyment of the dwellinghouse. However, the proposed building would be of substantial size. Whilst it would only be of a single-storey height, according to the submitted plans it would have a substantial footprint of 200.5m². Based on these drawings, that footprint would be approaching twice that of the dwellinghouse at No. 395 and would occupy a significant proportion of the remaining garden area.

12. Beyond a general description of the intended uses, little evidence has been provided to explain why accommodation of the scale proposed would be reasonably required.

13. Although the appellant contends that none of the rooms are excessive in size, the plans show there to be a considerable amount of surplus floorspace, particularly in the gymnasium, plant room and around the swimming pool.

14. The appellant argues that the gym would only be capable of accommodating a small amount of basic equipment. However, even taking into account the free weight stations, exercise bike, treadmill and table tennis table shown on the plans, together with a reasonable amount of circulation space, the gymnasium would still be a spacious room.

15. Whilst a plant room would reasonably be expected to serve a swimming pool and sauna, the plans provide little evidence that the entirety of the space shown would be required for electrical controls, filtration equipment and water pumps.

16. In addition, the swimming pool is surrounded by extensive areas of open floor space, including that providing access to it from the entrance. Whilst some sun loungers are shown on the plans, no evidence has been provided to explain why circulation space of the extent proposed would be necessary for the safe and convenient use of the pool. Accordingly, the evidence does not demonstrate that the amount of floorspace provided is necessary, or that the resulting size of the outbuilding is reasonably required for the uses it is intended to contain.

17. Taken together, the generous sizes of the gymnasium, plant room and circulation spaces contribute significantly to the overall footprint of the building. Whilst such facilities may be incidental to the enjoyment of the dwellinghouse, the evidence before me does not demonstrate that accommodation of the size proposed is genuinely and reasonably required for those purposes.

18. Furthermore, I am mindful that a very large separate outbuilding already exists within the garden. Although I am informed that this is a workshop and remains in use, there is little before me regarding its layout and operation, and I was unable to gain access into it on my site visit. Similarly, only limited details have been provided regarding the layout of the existing dwelling. Accordingly, the evidence before me does not demonstrate why all of the accommodation sought is reasonably required within a new building of the size proposed, rather than being accommodated, at least in part, within existing buildings on the site.

19. In light of all of the above, I find that the proposed outbuilding would be disproportionate in size relative to that of the existing dwelling. Whilst this is not necessarily decisive, it is an important consideration in determining whether the building would properly be regarded as one required for purposes incidental to the enjoyment of the dwellinghouse. The appellant has not demonstrated that an outbuilding of the size proposed is genuinely and reasonably required for the purposes identified.

20. The appellant's evidence has therefore not demonstrated on the balance of probabilities that the proposed outbuilding would be required for purposes incidental to the enjoyment of the dwellinghouse. As a result, the proposal cannot benefit from permitted development under Schedule 2 Part 1 Class E of the GPDO.

21. For the reasons given above I conclude that the Council's refusal to grant a LDC in respect of the erection of a single storey outbuilding (containing a swimming pool and associated functions) for incidental use to an existing dwellinghouse was

well-founded. The appeal should fail, and I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Mark Caine

INSPECTOR