Planning Inspectorate

Appeal Decision

Site visit made on 25 November 2026

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date 27 November 2026

Appeal Reference: APP/V4250/X/26/3377328
Pennington Farm, Pennington Lane, Haigh, Wigan, WN2 1NH

- 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 and Mrs Carr against the decision of Wigan Metropolitan Borough Council.
- The application ref A/25/099642/LUCP, dated 7 October 2025, was refused by notice dated 27 November 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 the erection of two detached, single-storey outbuildings within the residential curtilage of Pennington Farm - outbuilding 1 (Pool and Wellness Suite): approximately 146 sqm, to contain a domestic swimming pool, plant room, sauna, steam room, changing and shower facilities, and a lounge/observation area and outbuilding 2 (Garage, Storage, and Garden Room): approximately 162 sqm, to contain a double garage for two vehicles, equipment store for maintenance machinery, and a multi-purpose garden/family room. Both outbuildings are single storey, positioned entirely within the established residential curtilage.

Decision

1. The appeal is dismissed.

Main Issue

2. For the avoidance of doubt, I make clear that the planning merits of the proposed erection of an outbuilding are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.

3. The main issue is whether the Council's decision to refuse to grant an LDC was well-founded with particular regard to whether the proposed erection of two outbuildings would be incidental to the enjoyment of the dwellinghouse known as Pennington Farm and would be permitted development under Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

4. Class E of Part 1 of Schedule 2 of the GPDO states that *'the provision within the curtilage of the dwellinghouse of— (a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure',* is permitted development.

5. It is proposed to erect two outbuildings on land at Pennington Farm. The first outbuilding (outbuilding 1) would include a swimming pool (including a spa pool); a

sauna; a steam room; a lounge; a changing room with shower and WC; and a store. The second outbuilding (outbuilding 2) would include space for the parking of two vehicles; a garden equipment store; an entrance lobby; a WC, a cloaks/store; and space for a family and leisure room (including a bar) and a full-size snooker table.

6. As outlined in the Government's 2019 Permitted Development Rights for Householders: Technical Guidance, a purpose incidental to a dwellinghouse does 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. Overall, the proposed outbuildings would not contain normal residential uses. In general terms, they would include uses that are incidental to the enjoyment of the dwellinghouse.

7. The Court in Emin v SSE [1989] JPL 909 confirmed that regard should be had not only to the use to which the Class E building would be put, but also to the nature and scale of that use in the context of whether it was a purpose incidental to the enjoyment of the dwellinghouse. While the physical size of the building in comparison to the dwellinghouse might be part of that assessment, it should not by itself be conclusive. It is necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwellinghouse and answer the question as to whether the proposed building is genuinely and reasonably required or necessary to accommodate the proposed use or activity and thus achieve that purpose.

8. There is no dispute between the main parties that the proposed outbuildings would be permitted development in terms of falling within the curtilage of Pennington Farm. Based on my site visit, I am satisfied that the garden area to which the outbuildings would be positioned does have a functional and physical relationship with the use of Pennington Farm as a dwellinghouse. The land therefore falls within its curtilage. Moreover, I do not disagree with the common ground position of the main parties that the outbuildings would not fall foul of the size, height and curtilage coverage restrictions imposed in E.1(a) to (k) of Class E of Part 1 of Schedule 2 of the GPDO.

9. The point of contention between the main parties relates to whether the outbuildings would be genuinely and reasonably required for a purpose that is incidental to the enjoyment of the dwellinghouse. A planning statement was submitted as part of the LDC application. I have taken this into account in reaching my findings. Both the appellant and the Council have also referred me to appeal decisions elsewhere for proposals made under section 192 of the Act. I have determined this appeal on the evidence that accompanies this LDC proposal, exercising my own professional judgement, and on a fact and degree basis.

10. While not a conclusive or decisive matter, in footprint terms the two outbuildings would each be larger than the dwellinghouse on the land. The appellants' evidence is that the main dwellinghouse measures approximately 144.8 square metres internally, one outbuilding is approximately 162.4 square metres, and the other is about 146.0 square metres.

11. As regards the swimming pool element of outbuilding 1, it is stated that this is needed following a serious car accident relating to one of the appellants who has *'a recurring shoulder and neck injury, for which swimming is an essential form of physiotherapy'*. I have no reason to doubt that a swimming pool would assist from

a physiotherapy point of view. However, the evidence does not reasonably justify why it is necessary to have an associated lounge of the size shown on the submitted plans. I cannot see why it would not be possible to have a much smaller area of space (i.e., not a lounge) in terms of viewing children (with safety in mind), or why it would not then be possible to locate the sauna closer to the shower area. The appellant also seeks to justify the lounge from the point of view of resting between swims. Without suitable and reasonable justification, I cannot see why such resting could not take place within a much smaller space, by resting within the pool or pool area itself, or by simply limiting the period by which any swimmer starts and ends each session. I do not find that the lounge and internal corridor/circulation space is reasonably justified in this case.

12. While I do not doubt the need for a swimming pool, there is limited justification in terms of why it needs to be as long or as wide as shown on the submitted plans. The evidence is limited in terms of specific physiotherapy requirements relative to the length and width of the proposed swimming pool. Moreover, and while not determinative, it is noteworthy that it is at least possible to have a combined sauna and steam room. In this case, I am not certain why it is reasonably required to have two separate units. Overall, and for the above reasons, I find as a matter of fact and degree that the evidence does not support the claim made by the appellants that proposed outbuilding 1 is of a size which is reasonably required for a purpose incidental to the enjoyment of the dwellinghouse.

13. Turning now to outbuilding 2. This building includes a cloaks/store, entrance lobby and WC. There is a lack of justification as to why the cloaks/store needs to be of the size proposed, or why the entrance lobby is reasonably required. While the space around the snooker table is reasonably justified, so that the game can be played without interference, the circulation space around the bar and the family/leisure room has not been reasonably substantiated.

14. While there may in principle be a need for some form of garden equipment store, I would have expected as part of the LDC application some sort of technical assessment relating to the quantum of space required for this part of the building, including a list of specific items that needed to be stored. I am not certain from the evidence where existing equipment is stored. Furthermore, it is not clear what is specifically meant by *'machinery and tree maintenance equipment'.* Moreover, while space for a ride on mower is shown on the submitted plan, there is nonetheless a lot of circulation space around it and without reasonable justification.

15. The appellants seek to justify the width of the space for the parking of two sports utility vehicles (SUV) on the basis that it would allow *'car doors to be fully opened, which is essential for safely placing a toddler into a car seat, particularly given Mrs. Carr's shoulder injury*'. I cannot see why placing a car seat in a vehicle could not reasonably and safely take place outside of the building. I do not find that there is reasonable evidence to support the claim that between a 0.9 and 1.0 metre gap around each parked SUV would be needed for this purpose. There is nothing to suggest that placing a car seat in each SUV, and at the same time, would be required.

16. I also emphasise that it is normal practice for all but the driver to vacate a vehicle before it is subsequently parked in a garage. I am not persuaded that all car doors would reasonably have to be fully open when both SUVs were parked. In this

case, I do not find that the collective evidence demonstrates that the proposed garage is of a size that is reasonably required for a purpose that is incidental to the enjoyment of the dwellinghouse.

17. Overall, and for the above reasons, I find as a matter of fact and degree that the evidence does not support the claim made by the appellants that proposed outbuilding 2 is of a size which is reasonably required for a purpose incidental to the enjoyment of the dwellinghouse.

Conclusion

18. 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 two detached, single-storey outbuildings within the residential curtilage of Pennington Farm - outbuilding 1 (Pool and Wellness Suite): approximately 146 sqm, to contain a domestic swimming pool, plant room, sauna, steam room, changing and shower facilities, and a lounge/observation area, and outbuilding 2 (Garage, Storage, and Garden Room): approximately 162 sqm, to contain a double garage for two vehicles, equipment store for maintenance machinery, and a multi-purpose garden/family room, 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).

D Hartley

INSPECTOR