



Town and Country Planning Act 1990
Section 78 Planning Appeal

London Borough of Hillingdon Appeal Statement

Appeal By:
Mr Harrison Reeves

Proposal:
Single storey outbuilding to rear for use as a gym/store (Application for a Certificate of Lawful Development for a Proposed Development)

Appeal Site:
3 Copse Wood Way, Northwood

Our Ref: 22134/APP/2021/1790
Your Ref: APP/R5510/X/21/3280181

1. Introduction

- 1.1 This appeal statement is submitted by the London Borough of Hillingdon, as the Local Planning Authority (LPA), in respect of the appeal against its refusal to grant a certificate of lawful development for the erection of a single storey outbuilding to rear for use as a gym/store.
- 1.2 The LPA refused the application for a certificate of lawful development on 28 June 2021 for the following reasons (as stated on the decision notice):
 1. The proposed development does not constitute permitted development by virtue of the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2016 as the height of the outbuilding would exceed 2.5 metres and would be within 2 metres of the boundary of the curtilage of the dwellinghouse.
 2. The proposed development does not constitute permitted development by virtue of the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) as the proposed outbuilding, by reason of its overall size and scale is not considered to represent a development required for a purpose incidental to the enjoyment of the dwellinghouse.
- 1.3 The LPA's case is set out in the Planning Officer's delegated report, which should be read in conjunction with this statement. A copy of the delegated report is provided at Appendix 1.
- 1.4 This statement will not repeat the delegated report and will focus on addressing matters raised in the Appellant's statement of case.

2. LPA Comments on Appellant's Statement of Case

- 2.1 The appellant has advised that the first reason for refusal was the subject of extensive analysis in the Court of Appeal Case case of McGaw v Welsh Ministers (2021) and that the salient points were that due to the sloping site the PD height rules of 2.5m within 2m of the boundary would be exceeded. The judge in this case accepted that the eaves height measurement should be taken from the 'highest' point on the sloping site, even accepting that this measurement was at the boundary and technically on the neighbouring properties land. Using the same logic the appellant concurs that the subject application meets with the PD eaves height criteria.
- 2.2 The Council however considers that the advice contained within the Permitted development rights for householders Technical Guidance (September 2019) should be applied. In respect of Class E the guidance confirms that:

The height of the building, enclosure or container should be measured from the highest ground level immediately adjacent to the building, enclosure, or container to its highest point. and

If any part of the building, container or enclosure is within 2 metres of the boundary of the curtilage of the house, then the height limit for the total development is restricted to 2.5 metres if it is to be permitted development.

- 2.3 Given the sloping nature of the site, the height of the outbuilding on land immediately adjacent to the proposed outbuilding would be 2.9m which fails to comply with the conditions set out in class E.
- 2.4 Class E conveys permitted development rights to provide within the curtilage of a dwellinghouse any building required for a purpose incidental to the enjoyment of the dwellinghouse, subject to certain limitations. The footprint of the proposed outbuilding would be 78m². Although the proposed use as a store and gym could be considered to be ancillary uses to a dwelling house, it had not been demonstrated the need for the size of the outbuilding. The appellant has since provided additional information in support of the need for home gym facilities within the appeal statement. However the Council remains of the opinion that the scale of the outbuilding is such that it would be of a similar size to a single storey dwelling and the scale remains excessive for incidental use.

3. Conclusion

- 3.1 For the reasons set out in the delegated report, the Council considers that the proposed outbuilding would not comply with the conditions set out in Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2016 The Inspector is therefore respectfully requested to dismiss the appeal.

Appendices

Appendix 1 – Planning Officer’s Delegated Report